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SENATE—*Friday, June 20, 1986*

(Legislative day of Monday, June 16, 1986)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray.

God of all comfort, we commend to Your care and compassion Stu Balderson, financial officer, and his wife, Marie, in the tragic death of their son yesterday.

And so we remember the family of Len Bias and all who loved him.

The Lord is my shepherd; I shall not want. He maketh me to lie down in green pastures: he leadeth me beside the still waters. he restoreth my soul: he leadeth me in the paths of righteousness for his name's sake. Yea, though I walk through the valley of the shadow of death, I will fear no evil: for thou art with me; thy rod and thy staff they comfort me. Thou preparest a table before me in the presence of mine enemies: thou annointest my head with oil; my cup runneth over. Surely goodness and mercy shall follow me all the days of my life; and I will dwell in the house of the Lord for ever.—Psalm 23.

Thank You Lord for this beautiful psalm from one of history's great rulers, King David. Thank You for its promise of rest, restoration, and fearlessness, even through the valley of the shadow of death for You are with us. Help us to hear and believe and live. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The able and distinguished majority leader, Senator DOLE, is recognized.

Mr. DOLE. I thank the distinguished Presiding Officer, Senator THURMOND.

SCHEDULE

Mr. DOLE. Mr. President, under the standing order, the leaders have 10 minutes each. I know that the distinguished minority leader will not be available until about noon, so I ask that his time be reserved.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. DOLE. Following the leaders' time, there will be special orders in favor of Senators HATCH, PROXMIRE, HATFIELD, GORE, MELCHER, and STEVENS.

There will be routine morning business, not to extend beyond 10:15 a.m., with Senators permitted to speak for not more than 5 minutes each.

At 10:15, the Senate will resume consideration of H.R. 3838, the tax reform bill, under a previous unanimous-consent agreement. I think the record was made rather clear last evening that there will be no more than four rollcall votes. It is hoped that there will not be four. There may not be one, two, or three.

In any event, we agreed that if there will be more than four, they will be put over until next Tuesday.

We will be on the tax bill today. There could be rollcall votes. We hope, according to the managers—Senator PACKWOOD and Senator LONG—to dispose of 15, 20, or 25 of the amendments that are on the list.

Again, I caution my colleagues that I would not plan on waiting until Tuesday, because on Tuesday we will have about 6 hours before final passage. So if you have an amendment that you want to discuss, today would be a good day to do it.

It is also our hope that there will be no record votes after, say, 2 or 2:30 this afternoon. But, again, I am advised by the managers that that does not mean we will stop work at that time. It means that we stop rollcall votes; and we hope that either before or after that time, there will be a number of Senators on the floor to work out their amendments with the managers, because I understand that many amendments can be accepted and some may be withdrawn.

In any event, we really need to make progress today. Otherwise, there will be a number of Members who will be very upset, come Tuesday afternoon, when they have not had an opportunity to call up their amendments. They could still call them up and have a vote, but there would be no debate.

BACK TO THE ROOTS OF TAX REFORM

Mr. DOLE. Mr. President, based on the bipartisan agreement last evening, there is no question that we are on the way to enacting real tax reform legislation in the Senate. It has been debated and discussed, amendments have been offered; and every major amendment has been defeated, in accordance with the plan of the distinguished chairman of the committee, Senator PACKWOOD.

Across the country, there is a feeling of relief on the part of American taxpayers that we are finally discussing real tax reform. We have read editorials in the big city newspapers in support of tax reform. We have heard the commentators. Yes, there have been some disagreements, but the call for true reform is almost universal. In my home State, we have had an encouraging response from our newspapers, and I would like to share these words with my colleagues.

The Hutchinson News perhaps said it best: "Wow! It's Reform." That is what the people want and what they have come to expect of the Senate bill. In my view, because of the cooperation on both sides of the aisle, we have accomplished that goal. It has not been altered to any great extent. It puts the Senate in a very strong position in conference, so we can insist on the Senate rates and to work out some of the other problems that deal with real estate and many of the transition rules Members are sponsoring.

Overall, it is my view that we are on the way to a substantial—but not

unanimous—vote in favor of this revolutionary legislation.

KANSAS TALKS TAX REFORM

Since the historic reform package crafted by the distinguished chairman of the Senate Finance Committee arrived on the Senate floor, we have spent half the time "watching grass grow," and the other half battered by an almost round-the-clock amendment blitz. And there was not exactly a shortage of speeches, either—especially in prime time. Much of the activity has been technical and—in the tradition of this body—confusing. And I am certain our new TV and radio audience is hungry for an interpreter.

But despite all the confusion, the reasons for tax reform remain the same: Fairness and simplicity for the American taxpayer. And amid all the flurry, we should not lose sight of those compelling reasons for this legislation.

Mr. President, if we need to be reminded as to what we have been pursuing these long, long days and nights, I suggest we read some common sense from the heartland of America. I am talking about the opinions of tax reform from Kansas newspaper editors. These opinion makers know a good thing when they see it, and they knew they saw a good thing when the Finance Committee produced the remarkable bill we have been considering these many days.

One editor, from the Hutchinson News, said it best: "Wow! It's Reform."

And there is more Kansas wisdom, such as these words from the Iola Daily Register:

The Packwood bill—just as it is—would make the income tax much fairer and give the U.S. economy an enormous boost. If the 90-percent of the population who would benefit under its provisions would rise to its support, it could be written into law this year.

The Wichita Eagle-Beacon also was quick to underscore the popular theme of our bill:

The measure significantly would reduce personal and corporate tax rates, remove millions of poor people from the tax roles, abolish many of the current system's abuses and make economic productivity, not the Tax Code, the primary rationale for many financial decisions.

Writing for the Johnson County Sun, John Uhlmann recognized that history could be in the making:

All too often, it is claimed that a piece of legislation will be great for the people and the future of this country. Watch closely and enjoy, for this is one of those rare occasions where that claim will come true.

Mr. President, we are on the verge of a major breakthrough for the beleaguered taxpayer. Let us heed some common sense from the Newton Kansan:

The package as the committee wrapped it is a good one. The Senate should not unwrap it.

I ask unanimous consent that the complete text of these tax reform editorials be printed in the RECORD.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

[From the Iola Daily Register]

TAX REFORM BILL NEEDS PUBLIC SUPPORT

A radical tax reform bill sailed out of the Senate Finance Committee with a unanimous vote Wednesday and appeared headed for passage by the Senate next month.

Most Iolans would pay less federal income tax if it becomes law. The dollars they saved would be paid by big business—and by a relatively small number who have been sheltering high incomes under the present tax code.

Under the bill there would only be two tax rates, 15 and 27 percent, and many of the deductions now being used by those who itemize would be eliminated.

Perhaps the most controversial change proposed is elimination of the deductibility of money invested in individual retirement accounts by persons enrolled in pension programs at work. The change, it is charged, would discourage saving by millions of middle-class families.

Sen Bob Dole of Kansas disagrees with this assessment, however, Sen. Dole, who is a member of the finance committee, said dropping the tax rate to 15 percent for families with moderate incomes would more than compensate for loss of the IRA deduction.

Dole's point can be made as an answer to all of the other complaints that will be lodged by those who will lose the advantage of deductions they now are taking. The lower tax rates should compensate for the loss.

The only individual taxpayers who would pay more under the new code would be those with high incomes who had been able to take high deductions under the current code. They would be able to afford the increase.

The money saved by families and individuals would be made up primarily by profitable businesses which would lose deductions, such as investment credits on the purchase of new equipment.

The bill is designed to bring in as much money as is now produced by the income tax, so it will have no effect on the federal budget.

The reform measure was written by Sen. Bob Packwood, chairman of the committee, after a far more complicated measure he first proposed was picked to pieces. His second effort offers changes as sweeping as that proposed by the Reagan administration last year.

Like the Reagan proposal, Packwood's bill would exempt about six million more American families from the income tax altogether and, by lowering all other rates and eliminating many deductions, change the way business decisions are made in this country.

Today tax consequences weigh heavily when businesses and individuals consider whether and when to buy equipment, build or improve buildings, expand or contract their operations. If Packwood's reform passes, such decisions would turn far more on business reasoning. The result should be a more efficient, productive ecomony.

The lowered rates would allow millions of lower and middle-income Americans to keep more of the money they earn. The additional spending power created would be a powerful stimulus to business and could prolong expansion of an economy which appears due to slow down next year without a new shot in the arm.

Despite all those pluses, the Packwood bill will be under tremendous pressures. Those who would benefit the most from it—lower and middle income families—belong to the vast majority who only contact members of Congress when they feel threatened.

They'll stay on the sidelines, silent, while all those who have something to lose if the bill becomes law pour into Washington to make their pleas.

It will take all of the resolve the good ladies and gentlemen who write the laws can muster to stay the course.

Their task would be much simpler if that silent majority would bestir itself this time and speak up.

The Packwood bill—just as it is—would make the income tax much fairer and give the U.S. economy an enormous boost. If the 90 percent of the population who would benefit under its provisions would rise to its support it could be written into law this year.

[From the Wichita (KS) Eagle, May 9, 1986]

TAX REFORM: LOBBYISTS VS. PUBLIC

Armies of lobbyists are being recruited to defend the tax shelters and preferences threatened by the tax reform bill drafted by the Senate Finance Committee.

Senate Majority Leader Robert Dole now stands as a tribune for tax fairness, simplicity and economic good sense against the hordes of privilege. If Mr. Dole can steer tax reform through the Senate and eventually into law, he would do much to dispel the popular perception that Congress is beholden to economic special interests—and their political action committees.

The Senate Finance Committee bill is clearly beneficial to most Americans and to the nation's economy. The measure significantly would reduce personal and corporate tax rates, remove millions of poor people from the tax roles, abolish many of the current system's abuses and make economic productivity, not the tax code, the primary rationale for many financial decisions.

Realizing that Congress doesn't always put the national interest above the special interests, the Finance Committee put some "lobby-proofing" in the tax reform bill. The committee measure says a final Senate bill must be "revenue neutral," meaning that any amendments that cost the Treasury must include a way to replace the lost money.

Without that discipline, the Senate undoubtedly would turn tax reform into an auction of special-interest tax breaks. Now, however, a senator wanting to preserve the deduction for Individual Retirement Accounts, for example, must gore someone else's ox to get it.

Some special interests would prefer to kill tax reform entirely rather than lose their loopholes. The current system has allowed numerous individuals and corporations to avoid carrying an equitable tax burden. Many lobbyists have earned large salaries by getting tax breaks out of Congress. Such people are not going to surrender their special favors just to make the tax code fairer and simpler for their fellow citizens.

Mr. Dole, Finance Committee Chairman Robert Packwood and President Reagan have promised to push the Finance Committee measure. Arrayed against them are some of the most clever, determined people in Washington. Whether the people's repre-

sentatives withstand the onslaught of outraged special interests could set the tone of government for years to come. Tax reform is no longer just a good idea. It has become a test of who rules Congress.

[From the Kansas City Star, May 14, 1986]

SIMPLICITY ITSELF

Simplicity. That's what the new tax bill promises, regardless of whether it will raise or lower your taxes. Even for those who would end up paying more under the proposed system, its simplicity offers some consolation.

The proposal would allow people to quit worrying about how they ought to make their money to take maximum advantage of complex tax laws. Spending decisions would also be easier for the same reason. A dollar here would be much more like a dollar there.

Fewer people would itemize. More average citizens could, at least after a year or so, figure their own taxes instead of having someone else do it. You could forget about filing away sales tax receipts. You could evaluate investments on their own merits as they relate to your life, rather than the artificial ones set up at some point in Washington.

You could enjoy weekends in early April a little more.

Simplicity is not the only requirement for a tax system. It is not even the most important one. But in an increasingly complex world, one that presents us with an abundance of information and misinformation to evaluate, simplicity is worth something. Maybe it's worth more than we realize.

[From the Hutchinson News, May 9, 1986]

WOW! IT'S REFORM

No matter what happens to the Senate Finance Committee's startling new tax reform bill, 20 U.S. Senators have given new meaning to the language and new hope to everyone weary of being battered by special interests.

The plan is truly tax reform

That alone will brush away years of cynicism about politicians' actions in Washington, where tax reform in the past has always meant tax increase.

Because it is tax reform, the plan gores most special interest loopholes in the U.S. tax code. That, too, makes the proposal so appealing.

The plan proposes only two tax brackets: 15 percent and 27 percent. Currently there are a bewildering 14, with tax rates ranging from 11 percent to 50 percent, in the midst of a complex array of deductions and loopholes geared obviously for the wealthy.

In the new Senate Finance Committee's proposal, some of the middle class' favorite deduction loopholes would be kept. They are deductions for interest paid on home mortgages and deductions for state and local income and property taxes, and deductions for charity.

But that's about it for deductions. Tax shelters would be zapped. Rich taxpayers would be tapped in other clever ways to prevent them from getting a windfall in the sharp reduction of their tax rates. Corporations would pay a lot more income taxes. And millions of poor people would not have to pay any income taxes.

A few special interest loopholes have survived (and many more, of course, will be sought in the forthcoming hassle as the special interests mobilize).

But the new tax reform bill approved near midnight in Washington Tuesday deserves an astonishing salute from the nation. It's far better than anyone would have dared to hope could ever be generated anywhere in the U.S. Congress.

The task now will be to encourage all our congressmen to fight off the frantic special interests and perfect a tax reform bill that, astonishingly, currently is a tax reform bill.

[From the Newton Kansan, May 19, 1986]

KEEPING IT ROLLING

The Senate Finance Committee has produced a good tax reform bill, supported by all the committee members. Now the bill will have to be defended on the floor of the Senate from lobbyists representing special interests.

The floor debate, which is expected to occur next month, will be the first major debate in the Senate to be televised.

Sen. Robert Byrd, D-W. Va., the Senate minority leader, has endorsed the Senate Finance Committee version of tax reform, as has the Senate majority leader, Sen. Bob Dole, R-Kan.

Byrd called the bill real tax reform and said he doesn't expect great changes to be made in it on the floor of the Senate. He doesn't think it will become a "Christmas tree" tax bill.

If anyone could decorate this bill with tinsel and baubles for the special interests, it would have been done in the Senate Finance Committee, where the special interests have historically achieved their purposes. But it was not done. Miraculously, Sens. Robert Packwood, R-Ore., the committee chairman, and Bill Bradley, D-N.J., a champion of income tax reform, managed to get a relatively clean bill out of the committee and onto the Senate floor.

Real estate interests called the bill "a meltdown" because it destroys real estate tax shelters.

But the Senate Finance Committee bill is good precisely because it eliminates most tax shelters. If it is to be amended, the remaining ones (for the oil and timber industries) should be dropped.

The elimination of Individual Retirement Accounts for employees covered by other retirement plans is causing great commotion. The IRA tax exemption was a good idea, stimulating individual saving and investment. But comprehensive tax reform is a better idea, and it would certainly be preferable to pass the Senate Finance Committee tax reform bill intact rather than to open it up to a process of amendment which would give the lobbyists a field day.

The package as the committee wrapped it is a good one. The Senate should not unwrap it. Pass it on to a Senate-House conference committee without any amendment. That will make it harder for the special interests to tamper with it.

[From the Hutchinson News, May 19, 1986]

SURE, KILL IRA's

The tax reform bill passed recently by the Senate Finance Committee is a collection of magnificent tax reform decisions.

One of the best decisions was to kill the highly popular IRAs as tax loopholes.

The IRAs are loved by practically everyone. They have been embraced by 25 million Americans in only five years. They have been extremely popular with banks, brokers, savings and loan companies and other financial institutions. They could generate extraordinary retirement advantages for the people who have signed up.

Yet the IRAs should go, as the Finance Committee recommends.

The reason is that the IRA is a tax loophole, too. It is for special interests, mainly the more well to do. (How many poor people can afford to live on current income, let alone set aside $2,000 for retirement?)

The IRA is a classic example of subsidization of the middle or upper class by the poor, as part of a complex tax structure that favors the wealthy.

The financial community will scream at the loss of the IRAs. Let it. All the other special interests will scream at the loss of their favorite loopholes in the proposed reform bill. Let them.

Instead of compromising away some of these radical tax changes, the nation should demand more of the same. More of the surviving tax loopholes should be closed. More of the surviving special interests should be gored.

The IRA decision is a magnificent start in admitting who the special interest villains are and what needs to be done.

But we should go all the way.

The nation now should demand also that income tax deductions be ended for home mortgage interest payments, state and local taxes, and all other deductions.

If only Pogo were alive to see all this.

PACKWOOD BILL WILL HAVE A POSITIVE EFFECT

(By John Uhlmann)

Our nation is witnessing an historic event of enormous proportions. The Senate Finance Committee chaired by Senator Bob Packwood (R-Oregon) has proposed a tax bill which will have a profound and immensely positive impact on this country and the welfare of its people.

This is a tax code which almost everyone can understand. The overwhelming majority of individuals and companies will benefit from much lower rates. Lower rates are achieved by eliminating almost all tax preferences, sometimes referred to as "loopholes." Those few deductions which are left will benefit a great number of Americans such as homeowners and charities. Our senators and congressmen will be freed from the clutches of special interest lobbyists attempting to gain benefits for their organization, industry and/or company.

That the total wealth of the country will increase is self-evident, as individuals and corporations invest for the greatest financial return rather than in those activities which Congress, with the aid of special interest lobbyists, determine will return the greatest social good. Businessmen, lawyers and accountants will figure out ways to better serve the public rather than spending their efforts petitioning Washington for tax advantages to serve their own parochial interests.

A reasonable and logical question is: "If this is so wonderful, why has it not been proposed before?" To answer this question and to forecast the future benefits to the nation, we must review the current situation in its historical perspective.

In 1801, President Thomas Jefferson declared he wished to abolish all internal federal taxes and reduce federal expenditures and personnel. Alexander Hamilton was horrified. Thus began an ongoing battle which still rages today between those who would leave the nation's financial affairs in the collective judgment of the people (populists) and those who believe that the nation's important financial decisions should be determined by a small, enlightened group of brilliant people (central planners).

In the last fifty years, the Hamiltonian view has won over the majority of those in the House and the Senate. It has served them well politically by buying votes from their constituency and monetarily by raising funds from special interest lobbyists, and has stroked their egos by giving them the feeling they have the power and intelligence to direct the economy.

It now appears that the people are on the verge of a great victory. Every political faction can claim credit for this victory. Liberal Democrats can point out that this bill strikes at the rich who do not pay their fair share. Moderate Democrats, such as Senator Bradley of New Jersey and Representative Gephardt of St. Louis, can point with pride that this bill closely resembles the one they have been proposing.

Liberal and moderate Republicans, including Senator Jack Danforth, led by Senator Packwood, put together the cohesive package. This gained a unanimous (20-0) vote in committee. Senator Bob Dole played a central role in pushing this measure through the committee. Conservative Republicans, led by President Reagan and including Congressman Jack Kemp, provided the philosophical climate which resulted in the cataclysmic change to a populist approach to raising revenues.

All to often it is claimed that a piece of legislation will be great for the people and the future of this country. Watch closely and enjoy, for this is one of those rare occasions where that claim will come true.

UNITARY TAX PROPOSAL

Mr. DOLE. Mr. President, last evening there was some disagreement on whether or not the unitary tax amendment was to be included in the list of amendments, and there was a lot of misunderstanding. I know that Senator WILSON felt strongly.

I was informed by some that had they known it was on the list, they would have objected. In an effort to reach an agreement, Senator WILSON agreed to withdraw that amendment in consideration that, in turn, he could be promised hearings in the Senate Finance Committee. That agreement was made with the chairman; and there are a number of other Senators, I assume, on both sides, who have an interest in serious hearings on that proposal.

Based on that, I indicated to Senator MELCHER and Senator BYRD that if the unitary tax proposal did come before us today, I would make a motion to table it. I want the record clear that this would not be done to interfere with any negotiations Senator WILSON is carrying on. But, frankly, I was trying to get an agreement, and the amendments were coming in fairly quickly, as I recall about 9:30; and everybody was saying at that time: "Get it quick. It's going to fall apart."

We did the best we could. Senator WILSON may have felt that we were prejudging his amendment, but that was not the case. My effort was to reach an agreement to try to bring this to a conclusion and get the Chair to say, "Without objection, the request is approved."

So I hope I did not offend Senator WILSON or anyone else. I believe I support what he wishes to do in this area.

But my larger responsibility was not to be involved in every discussion and every amendment. It was to get the agreement. That was done.

I thank the distinguished minority leader and others for their cooperation.

□ 0940

RECOGNITION OF SENATOR PROXMIRE

The PRESIDING OFFICER. Under the previous order, the Senator from Wisconsin [Mr. PROXMIRE] is recognized.

NUCLEAR ARMS CONTROL AT ITS BEST—THE INTERNATIONAL ATOMIC ENERGY AGENCY

Mr. PROXMIRE. Mr. President, when it comes to nuclear weapons, all of us, the Congress, the press, and the public can only seem to see the dangers, the failures, the threat to life. We ignore the successes, even the spectacular successes. This Senator is guilty of speaking day after day of the failure of arms control. I moan in Cassandra style about the threat of nuclear war. Rarely has this Senator or other Senators spoken of one of the most remarkable successes in preventing nuclear war. Today, in this speech, I intend to do exactly that.

I can remember standing on the floor of the Senate in the mid-1960's on one occasion when Senator Robert Kennedy of New York was speaking. Senator Kennedy reminded the Senate that the greatest threat to the survival of civilization in the nuclear age is the proliferation, that is, the spread of nuclear weapons. Senator Kennedy's brother, President John Kennedy, had previously warned the Nation that unless the international community found a way to stop the spread of nuclear weapons, as many as 15 to 25 nations would have nuclear arsenals by the middle of the 1970's. Well here it is 1986 more than 20 years after the Kennedy warning and a full decade after the Kennedy vision of 15 to 25 nuclear nations should have come about. What has happened? There are still only five full fledged members of the nuclear club. Why is that? It is partly because of the economic and technological capacity required for a full pledged nuclear power. David Fischer is a former official of the International Atomic Energy Agency. He has written an article in the June-July issue of the Bulletin of the Atomic Scientists. Fischer writes that even Britain and France will have nuclear arsenals bristling with 2,000 warheads each by the late 1990's or earlier. So the cost of a nuclear arsenal that would mean full fledged in entrance into the nuclear club has gone up. Nevertheless at least 20 or 30 nonnuclear weapons countries have the economic and technological capacity to enter the club as full fledged major members if they wished to do so. And yet only Pakistan, India, South Africa, and Israel have made even a small start. This is good news for nuclear peace. It greatly diminishes the nightmare that nuclear war will break out in the foreseeable future. So far we have been very, very fortunate. Why? Is it blind luck? Or have there been forces deliberately at work to stop nuclear proliferation that have succeeded?

The answer is that it is not just a matter of luck. It is a great story of international cooperation and leadership. The leadership for this cooperation has come from the International Atomic Energy Agency. The IAEA has done a remarkably successful job of stopping the spread of nuclear weapons. What is this International Atomic Energy Agency? It is an organization that came into being in 1957 as an agency of the United Nations. It has 133 member nations. It had its headquarters in Vienna, Austria. Its mission is to accelerate the peaceful use of nuclear energy but to ensure that assistance provided by the IAEA "is not used in such a way as to further any military purpose." What has the Agency done to stop proliferation? It has very nearly stopped completely the prime source of weapons grade fissionable material crucial to nuclear weapons. That source is the byproduct of the production of nuclear energy. It has done this by reacting effectively to attempts to divert processed uranium or plutonium to military purposes.

For example, in May 1981 Israel bombed a reactor in Iraq, because Iraq had imported a sophisticated nuclear plant and material for which it seemed to have no clear peaceful use. The blame for that incident lay not only with Israel and Iraq but with the suppliers. As a result of that development, the IAEA sharply stepped up its safeguards. It doubled its budget and greatly increased the numbers of inspectors and inspections. There has been a steady increase in safeguards coverage in both weapons and nonweapons countries. The IAEA has succeeded in achieving technical progress with new fuel counting equipment. And in 1983 the Agency began unannounced, "surprise" inspections. It has also succeeded in raising the standard of training and professionalism of its inspectors.

Is the IAEA sufficiently comprehensive in its inspections to be effective in stopping nuclear proliferation? Yes. More than 95 percent of nuclear plants in all the nonweapons states are

now under agency safeguards. The United States and Great Britain have opened up all their civilian plants to IAEA inspection. France and the Soviet Union have opened some. China has indicated it will follow suit.

Is the IAEA growing or declining in membership? It is growing. It has grown from 116 nations in 1980 to 133 today. Is there still a problem? Yes. But it is concentrated. There are still nine nonweapons countries operating nuclear plants outside the Non-Proliferation Treaty. Five of these plants can or will soon be able to produce weapons grade—that is unsafeguarded-fissile material. That's a serious problem. But the success of IAEA is far more impressive.

In his article in the Bulletin of the Atomic Scientists, David Fisher writes:

Without IAEA safeguards, an international regime to curb the spread of nuclear weapons would not be credible today. They have helped to create confidence that, at least for the present, proliferation has stopped in the industrial world and in most of the Third World. They have become the conditions for international nuclear trade and cooperation. No responsible nation will export without them and in practice, most now require IAEA safeguards on the entire fuel cycle of the importing country. They have provided the world's first experiment in systematic on-side inspection and they may serve as a breakthrough in arms control.

Mr. President, the IAEA provides a reassuring example of how arms control can and does work to keep this dangerous nuclear weapons world from exploding into the nightmare of a nuclear holocaust. We can and must build on its brilliant success.

RECOGNITION OF SENATOR GORE

The PRESIDING OFFICER. Under the previous order, the Senator from Tennessee is recognized.

Mr. GORE. Thank you very much, Mr. President.

MX MISSILES

Mr. GORE. Mr. President, on Monday, I rose to discuss a development in the Senate Armed Services Committee which had been reported in the press during the preceding weekend. The development in question was a vote in subcommittee to cut the proposed funding request for the Midgetman missile in half and to divide the remainder in half yet again, by way of other requirements whose effects would be to impair what had already been impeded.

This judgment was also made by the full committee later in the week.

The consequences of these measures, if they are not overturned on the floor of the Senate or in the conference committee which would follow, have now been explained by Under Secretary Hicks in a letter.

According to Mr. Hicks, the Midgetman's schedule will be delayed at least 1 year, and that assumes a decision this coming fall in the Pentagon, to confirm the missiles design and to block further efforts at tampering.

My purpose in the earlier speech was to remind those who regard this delay as a victory of the real facts. Neither the modernization of this country's nuclear forces, nor the pursuit of its objectives in arms control can take place in the absence of a politically effective consensus. The history of our struggle over these questions, during most of the last 15 years, makes this clear.

During all that time, we have seen only one concept which promised to achieve the necessary degree of agreement. That was the Scowcroft Commission report, a document desperately needed by the President to save one weapon—the MX—which did so by proposing another—the Midgetman, a document intended to expedite force modernization—which did so by demanding more intelligent approaches to arms control.

The decision to slash funding for the Midgetman, will—if it is allowed to stand—bring into serious question whether the Midgetman will be deployed at all, and consequently, whether the fabric of the Scowcroft report will be preserved or torn apart.

If we cannot deploy the Midgetman it will inevitably call into question the deployment of the first 50 MX's, let alone any more of them as requested by the President. The Midgetman, because it is both mobile and hardened against nuclear blast, presents an extraordinary challenge to Soviet attack planners. Under even the most adverse circumstances, the price to attack Midgetman, measured either in warheads or throweight, is so great as to destroy any possibility of an effective first strike against our ICBM force as a whole, including the MX missile. Take away the Midgetman, and the MX is exposed, vulnerable, while at the same time highly threatening to the Soviets.

There is, of course, another way to defend MX missiles, and that is by defending them with some early and limited version of SDI, at vast expense, and at the risk of destroying what is left of restraint between the United States and the Soviet Union. But there are those—and they include virtually all Midgetman's critics—who believe that what this country most needs is more and more counterforce warheads, even if it mounts up to a first strike capability against the Soviets comprising a large MX deployment, much larger than now planned, and backed by a limited defensive network. Their purposes have been well served by cutting the Midgetman's budget and obstructing the rest.

All of this seems to be well understood in the other body.

In a development which has not been widely reported, the Research and Development Subcommittee of the House Armed Services Committee has just voted 8 to 2 to freeze deployment of the MX after the first 10 until and unless the Midgetman goes into full-scale development.

Presumably, this same measure will have no serious trouble getting through the full House Armed Services Committee and then the full House of Representatives.

Mr. President, as a democracy we need consensus for force modernization and for arms control. The development of the consensus is always difficult, indeed tortuous. If we are to preserve the prevailing consensus, we must strengthen the logic of the Scowcroft Commission report.

I suggest the absence of a quorum

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HECHT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECOGNITION OF SENATOR HECHT

The PRESIDING OFFICER. The Senator from Nevada, Mr. HECHT, is recognized.

IMPEACHMENT OF JUDGE HARRY CLAIBORNE

Mr. HECHT. Mr. President, I wish to speak on the impending impeachment of Federal Judge Harry Claiborne of Nevada.

Mr. President, the Constitution of the United States provides that "no person shall be deprived of life, liberty or property without due process of law." Every American is guaranteed the right to a final day in court.

The Constitution also provides for impeachment of judges to begin in the House with a trial in the Senate. As a U.S. Senator I have taken an oath to uphold the Constitution.

If Judge Harry Claiborne feels that Congress is his court of last resort, he is entitled to that forum under our Constitution.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

□ 1010

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. D'AMATO). Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of routine morning business.

JULIE HEW, ESSAY WINNER

Mr. INOUYE. Mr. President, the 1986 winner of the National Journalism Contest sponsored by the President's Committee on Employment of the Handicapped was Julie Hew, a senior at Kapaa High School on the island of Kauai in the State of Hawaii. I recently had the pleasure of participating in an event at which Miss Hew was awarded a scholarship from the Disabled American Veterans, which she plans to use in attending the University of Oregon.

Mr. President, I share this information about Miss Hew not merely because she is a resident of Hawaii—although that is a great source of pride—but more importantly, because I believe her prize-winning essay is worthy of attention by my colleagues and the citizens of our Nation.

Her essay, "Live, Learn, and Enjoy," is a description of a leprosy victim, Elroy Malo. Victims of leprosy, or Hansen's disease, have since Biblical times suffered the societal stigma of their disease as well as its crippling effects. In Miss Hew's essay, we learn of Elroy Malo's tremendous difficulties with leprosy and blindness, but also his undiminished inner strength that enables him to persevere.

Against great odds. Elroy Malo has become an active leader of the disabled community and an inspirational figure for all. We owe much to Miss Hew for so sensitively and eloquently sharing the story of Elroy Malo's struggle to success. I hope that many others will see that in this story of personal dignity and resilience, there are many lessons for us as well.

Mr. President, I ask unanimous consent that Miss Hew's essay be reprinted in the RECORD.

There being no objection, the essay was ordered to be printed in the RECORD, as follows:

1986 NATIONAL JOURNALISM CONTEST
WINNER—FIRST PLACE

LIVE, LEARN, AND ENJOY

(By Julie Hew)

While slowly dialing the numbers on the telephone, I glanced at the clock, 9:04 a.m. My stomach churned. What am I going to say? Should I greet him cheerfully or seriously? I hope I don't say anything insensitive or offensive. All these throughts raced through my head as the phone rang.

"Hello," came the warm voice at the other end.

"Good morning, Mr. Malo, this is Julie Hew."

"Oh! Howzit." Instantly I relaxed—this wasn't going to be so difficult after all!

Elroy Malo, a pure Hawaiian leprosy patient, has come a long way from the isolated little community of Kalaupapa where he was sent in October 1947 at the age of twelve. As a young boy, Elroy enjoyed the vast new playground and the escape from labor in the family taro patch. However, the stigma of being a Hansen's disease patient soon set in. The pain of that experience is still deeply embedded.

Hansen's disease or leprosy has been around for centuries. It attacks the nerves of the extremities leaving the fingers and toes to shrivel. Ulcers and sores develop on the arms and legs that are void of feeling and unable to indicate pain or injury. Blindness also occurs in later stages. It is frequently referred to as "the living death" because the disease itself is not fatal, but the victim lives with the physical and mental distress for the rest of his life. Today, 11 million people throughout the world are afflicted with leprosy. Most cases occur in South China, Southeast Asia, India, Central Africa, South and Central America, the Malay Peninsula, and the South Pacific Islands. In Hawaii, the disease is thought to have originated in China when immigrants brought it over in the 1850's. Hawaiians, having been isolated for so long, had little immunity to foreign disease and caught it readily. Until recently, an effective treatment for leprosy did not exist. Thus the patient was forced into isolation from the rest of society. The falsehoods that provide the stigma of leprosy depict those patients as the dregs of society, those who are being punished by God, or inhuman. But leprosy patients are people with a disease, and they have the same feelings, desires and goals as anyone else.

Elroy Malo is an example of how one can overcome his difficulties and make the most of life. Leprosy claimed his body and his sight, but not his brain or heart.

While living on Molokai, and later in Pearl City, Elroy was restricted to the grounds of a school or hospital. He was never allowed to be completely free. By nature, he was energetic and proud, and he came to resent the brand others put on him or the invisible walls that kept him from being like other people. He became very bitter and angry at the world. Rebelling, he refused assistance from his teacher and doctor, and preferred to be alone, drowning his sorrows in alcohol. His depression and negative attitude continued until 1972 when he finally moved out of the hospital. After 24 years of confinement, Elroy was ready to become an active part of the community.

Until 1971, Elroy practiced self-rehabilitation. He taught himself how to use a cane by trial and error—frequently walking into walls and banging sensitive shins. Then he started rehabilitation at Ho'opono School for the Blind and Visually Impaired. In 1972, he began attending the University of Hawaii with three goals in mind: voice training (singing is a great passion of his), learning to speak Hawaiian, and learning to write. School was a test in itself on Elroy's determination and perserverance. He had to take oral exams and tape record lectures, which meant studying twice as hard as everyone else. In 1978 the hard work paid off and Elroy received his Bachelor's degree in Hawaiian language. Two years later he was awarded his teaching certificate.

Now Elroy sits on numerous boards of non-profit organizations, sharing his views as a representative of the disabled. He has been on boards of directors for the Eye of the Pacific, Ho'opono School for the Blind and Visually Impaired, and the Aloha Council (affiliated with the American Council). He was also the representative of the disabled to the Oahu Tenants Association Council, and the second vice president for the association in his building. The Aloha Council engaged him to make speeches at rallies to various groups on his experiences and the importance of the Council. Elroy is also an active participant in the Very Special Arts group that puts on plays by the disabled for the community.

Although he lives by himself in the Hawaii Housing project, Elroy is not alone. In 1982, he was the first blind person from Hawaii to travel to Australia to get a seeing-eye dog. His trip was sponsored by the Eye of the Pacific, and it changed his life. Kieran, his full-time companion helps with traveling tremendously. Sometimes the pair don't end up in their desired location, but those times are rare and Kieran has improved Elroy's quality of life and feeling of independence.

There are approximately 36 million disabled people in the United States alone. Each year 4 million new cases of eye diseases are discovered and ½ a million are diagnosed as "legally blind." Yet Ho'opono is the only school of its kind in Hawaii and there are only 55 throughout the country.

Elroy Malo lives with two "disabiities." He has leprosy, and as a result of that is blind, but he hasn't let his physical limitations prevent him from broadening his horizons and helping others.

"Disability" is a label I question. It refers to the lack of ability and connotes incompetence, yet Elroy Malo has the ability to do many things that others cannot. He is not disabled, he is physically limited. Elroy is a special person. Some people with physical limitations are in fact disabled because they believe they are disabled, and they let others tell them so. Elroy's attitude is positive about himself and his capabilities. Being able to accept his situation has helped him overcome his anger and bitterness which in turn helps him lead a productive life.

"Don't let other people's hang-ups stop you from doing what you want," he says, "and don't be afraid to try new things, because someday you'll be happy to say, 'I'm glad I did it' instead of 'I wish I did.'"

Elroy has dedicated his life to helping others through non-profit organizations or by sharing his story so that others may benefit and learn from it. Now, he can demonstrate his courage, determination and a positive outlook on life.

Those of us who are not among the 36 million people with physical or mental limitations sometimes take for granted our everyday abilities. We quickly glance at the clock or use healthy fingers to dial the telephone. Someone like Elroy Malo has to remind us of how precious our good health is. The key to life is your attitude. The willingness to try the new, practice the difficult, face reality, and be optimistic makes an enormous difference. Because of his physical limitations, Elroy compensates by doing as much as he possibly can. He doesn't sit around feeling sorry for himself. He goes out, keeps busy, and has a lot of fun. If we all lived like Elroy, whether healthy or "disabled", and stopped thinking only of ourselves, no one could complain of being unproductive, desolate, or destitute. I admire Elroy Malo most for never giving up and making contributions to a society that

at one time looked down on him with scorn. A well-known saying reminds us to "live and learn." Elroy Malo is living, learning, and enjoying it!

FIFTIETH ANNIVERSARY OF RANDOLPH-SHEPPARD ACT

Mr. STAFFORD. Mr. President, during my service in the U.S. Senate, and particularly during the years when Senator Jennings Randolph was a leading Member of this body, I had the privilege of being the ranking member of the Subcommitee on the Handicapped of Labor and Human Resources, of which Senator Randolph was the most able, distinguished, and outstanding chairman.

During that time we had frequent opportunities to be involved in what was known as the Randolph-Sheppard Act. That was a piece of legislation which was signed by then President Franklin Delano Roosevelt 50 years ago today.

So this is the 50th anniversary of the signing of the Randolph-Sheppard Act.

I think it is appropriate for me to say a few words to remind all of us that that act was signed 50 years ago, and to note how important that has been to some of the visually handicapped people of America and to the Nation itself.

What that act did, in essence, was to provide that the blind and visually impaired people of this country who wished to do so could establish small shops—to put it in plain English—in U.S. Federal buildings. Over the 50 years since Franklin Roosevelt, as President, signed that act, some 39,000 visually handicapped people have had an opportunity to be small businessmen and women in Federal buildings here in the United States.

At the present time there are 3,875 people, approximately, who are engaged in retail activities, if I may use that popular term, under the provisions of the Randolph-Sheppard Act in this country. It is interesting to note that those people are earning an average income from these activities of $18,300 a year.

So this act presently is helping 3,800 people, in total over 50 years 39,000 people. It has allowed from 3,500 to 4,000 people a year who are either totally blind or seriously visually impaired to be productive, self-supporting citizens of the United States of America.

I wanted this opportunity to pay my respects to Senator Randolph and to the co-author, Senator Sheppard of Texas, for the conception of this act and for the long, hard work which Senator Randolph devoted to the act to make sure that it nourished in the years following its inception. I can personally testify as to how much time and work he devoted to it in the years when I served with him on the Handicapped Subcommittee of the Committee on Labor and Human Resources in the Senate.

SENATOR HART AND AMERICAN FOREIGN POLICY

Mr. BYRD. Mr. President, the distinguished senior Senator from the State of Colorado, Mr. HART, has been one of the most thoughtful Members of this body over the years. He has consistently displayed a vision which has often broadened my own perspective on some of the central problems of our era. At the same time, he combines his intellectual freshness with a good dose of practicality.

Mr. President, it is this quality of bold and creative thinking, solidly grounded in Rocky Mountain pragmatism, which has again marked his latest effort, a comprehensive three-part series of addresses on American foreign policy delivered on June 11, 12, and 13. His foreign policy series, entitled "Enlightened Engagement: A Foreign Policy for the 21st Century," given at the Georgetown School of Foreign Service, outlines in broad strokes a comprehensive framework—a vision—of the challenges and opportunities for this country into the next century. It is precisely this kind of analysis which is obviously and sorely lacking in the fractured and drifting ad hoc militarism which characterizes the present administration's approach to the world.

In the key regions where America's role and America's character are being tested, particularly in the Middle East and Central America, American policies and strategies are infused by no overall architecture, no broad mixture of incentives and penalities, carrots and sticks. All we seem to do these days is vote on either military assistance or arms sales. In short, this Nation is lacking exactly what Mr. HART provides in great detail and eloquent style in his address. Mr. HART is to be commended for this thoughful exercise, and I highly recommend that my colleagues and other interested individuals read this series of addresses. I ask unamimous consent that the three-part series be reproduced in its entirety in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ENLIGHTENED ENGAGEMENT: A FOREIGN POLICY FRAMEWORK FOR THE 21ST CENTURY

LECTURE ONE

Introduction

Throughout history, the fate of nations has depended on their ability to match changes in the world with changes in their sense of power, potential, and purpose. Sometimes a nation pretends it can play little role in the world when it has so grown in power that even its inaction has major consequences. Our nation made that error in the 1920s and '30s when a return to isolationism permitted the rise of aggressors in Europe and Asia.[1]

More frequently, nations cling to visions of empire that ignore changes within and beyond their borders. Austria-Hungary is this century's best example. Austria was able to play the role of great power for 200 years on the strength of the victories of Prince Eugene of Savoy. But when, in 1914, Austria attempted to act beyond its strength, reality asserted itself. The Austrian empire was wiped from the map.

In this Hobbesian world, the realities of power and change have a way of impressing themselves on even the most stubborn. Sometimes the reckoning can be put off—Byzantium delayed it for centuries. But when it comes late, it also comes hard.

For the past several decades, a reality we have not wanted to acknowledge has been knocking at our door: the reality of changing power relationships.

In 1958, President Eisenhower sent the Marines into Lebanon. The result was what we expected in the post-war world. American forces were committed, we met little opposition, we achieved our goal, and the public supported the action. It was a typical act by a Superpower in an age of superpowers: easy and successful.

In 1961, President Kennedy also expressed the confidence of a superpower when he said we would "pay any price, bear any burden, meet any hardship, support any friend, oppose any foe to assure the survival and the success of liberty." His words were well received by a nation that did not anticipate a situation in which the price could be too high or the burden too heavy.

Reflecting this confidence, in 1965 we sent American combat troops to defend the Republic of Vietnam. The initial commitment a year earlier had not been controversial; the Tonkin Gulf resolution passed the Senate 88 to 2, and the House 414 to 0. Ten years later, Saigon fell to the North Vietnamese army, as helicopters plucked the last remaining Americans from the roof of our Embassy. It is a scene we will never forget.

Vietnam should have led us to reconsider our perceptions of our role and means in the world. Yet in 1982, acting as if little had changed since 1958, we again committed the Marines to Lebanon—this time, without clear purpose or support. And this time, the lesson was not a decade in coming. We suffered an embarrassing defeat, militarily and politically, in less than two years. In just four months, we went from hearing the President of the United States tell our nation that the village of Suk al-Gharb was a vital national interest to watching our troops, minus 285 dead, board their transports and sail away.

There is an important lesson here: global change in the 1960s, '70s, and '80s has outrun a foreign policy largely constructed in and for the 1940s and '50s. Our goals have not changed. As always, we seek to ensure that Americans enjoy security and opportunity; that our fellow human beings around the world live with freedom and dignity—and when they do not, that they look with hope to America's leadership; that, with the cooperation of our allies and the support of our own people, we will take any

[1] The point applies with equal force to international economics. As Charles P. Kindleberger notes, the world-wide depression of the 1930s resulted, in large part, from the unwillingness of the U.S. to assume responsibility for world economic leadership that Britain had surrendered.

actions necessary to protect the security of our nation and the survival of our planet.

Our values and goals are constant, but the world in which we pursue them continues to change—dramatically. Because we have resisted those changes, too many of our actions in the world are irrelevant, ineffective, or even counterproductive. If we continue to ignore the world's changes, we will suffer increased conflict between our power and our commitments, our opportunities and our actions.

America still has unparalleled strengths and responsibilities. Our challenge is to unite the American people behind a vision that better employs our strengths and fulfills our responsibilities.

What are the changes that have outrun our foreign policies? What further changes will confront us in the coming decades? How can we use those changes to bring America's commitments and power into harmony?

No individual should presume to have complete prescriptions for all the foreign policy challenges that confront us. Nor should we attempt to reinvent the world.

These lectures seek to provide a direction for our thinking about the role of America in the world toward the 21st century. Even now, we can create a better framework for advancing our security, ensuring our prosperity, fostering our values, and creating a safer planet. We must sound a challenge—a challenge to seasoned practitioners and young idealists—a challenge to all Americans concerned about our role in the world—a challenge to think freshly, creatively, and constructively. For I believe we can make this time of change an American age of opportunity.

An Era of Change

Many of the major global changes that render traditional foreign policies ineffective are already apparent:

First and most important, military and economic power is distributed more widely, if not more evenly than in the late 1940s, when our current foreign policy framework emerged.

The strictly bi-polar world is gone. In its place is a world where secondary powers can defy superpowers, as we discovered in Vietnam and the Soviet Union is discovering in Afghanistan.

Many powers have arisen independent of either Washington or Moscow. China is one such. Having broken its Soviet alliance, it remains wary of allying with the United States. Brazil and the Asian nations of the Pacific Rim are emerging as regional economic power centers, increasingly less attached to either superpower.

Moreover, an increasing number of events are driven by neither superpower. Neither the Soviets' trouble in Afghanistan nor ours in Central America is *caused* by the rival superpower, though in each case the rival seeks advantages from them. Indeed, in the third world, forces such as religious fanaticism are hostile to both the United States and the Soviet Union.

Our two nations possess two of the world's three largest economies, and, in terms of the survival of human kind, our nuclear stockpiles are symbolic remnants of bi-polarity. But the superpower notion has become insufficient to capture the complexities of modern power relations.

The diffusion of power is the defining reality of our time. Ultimately, it can also be the greatest source of American opportunity.

Second, nationalism—which first appeared in Europe and America in the 1700s—has spread since World War II throughout most of the developing world. Between 1945 and 1980, over 80 countries became independent of their imperial rulers. In this age of nationalism and diffused power, a superpower may have the will to do something, but not the unilateral means.

In military conflict, war with even a minor state now often means war with its people, not just its government and its army. When its government is defeated, the conflict often enters a stage of terrorism and guerilla warfare—forces that are difficult to defeat, and which render a superpower's massive arsenal largely irrelevant.[2]

Third, we have witnessed an economic transformation equal in importance to the Industrial Revolution: the emergence of a global economy. At the close of World War II, less than a tenth of the world's goods and services were traded internationally; by last year, this figure had grown to nearly 25 percent. This change is keenly felt in the United States. Since President Kennedy's time, the share of American jobs dependent on exports has more than doubled, and the growth in trade now directly or indirectly affects nearly every American worker.

This economic revolution has occurred in a global infrastructure that makes trade possible: shipping costs reduced to a fraction of those of 30 years ago; an increasing knowledge of foreign markets; international communication and full telecommunications systems. The last of these has implications well beyond commerce. The communications revolution pushes far-flung tensions and conflicts onto the global stage in minutes and telescopes the time available to respond to crisis.

If these power shifts have outpaced our foreign policy, then the changes of the next few years may outdistance it entirely.

Unless we secure stronger non-proliferation agreements, the number of nations with nuclear weapons could triple, with real or threatened nuclear terrorism a distinct possibility;

In the absence of new arms agreements, a multitude of weapons in space and an additional 10-20,000 Soviet warheads beyond current stockpiles will probably be developed;

The Soviet Union's ethnic, especially Moslem, population will have grown faster than its Russian population; by the 21st century, the Soviet Union's Central Asian Republic may have the nation's highest rates of unemployment and instability;

The population of Africa will likely double. The most populous cities in the world will all be in what is now the developing world;

China will likely have quadrupled its 1980 national income levels; Brazil may be a trading power on a par with current-day Korea.

Our challenge is to adapt our foreign policy to this historic period of revolutionary change.

Unfortunately, most of the foreign policy debate within both political parties addresses only one small piece of this larger and more complicated puzzle: when and how to use American military force, and which Soviet-aligned forces to oppose with our own force. Unquestionably, these are important and difficult questions. But even if we were to divine a "correct" answer to those questions, our foreign policy would still be sorely inadequate on many fronts to steer us into the 21st Century.

A foreign policy framework for the year 2000 should tell us more than where, when, and how to send American arms and troops. It should tell us how to contain Soviet expansionism *and* move beyond an increasingly unproductive, dangerous, and insufficient U.S.-Soviet competition. It should tell us how to adapt NATO and our other alliances to changing times. It should tell us how to battle African famine, defuse the Latin American debt bomb, and nourish the trend toward open societies throughout the developing world. It should tell us how to make America more competitive in the world economy. Above all, it should tell us how to reach the next century safe from nuclear disaster.

I believe such a new framework—which I call a framework of enlightened engagement—has four pillars:

Management of U.S.-Soviet relations in a way that uses rising nationalism in the developing world, America's economic advantages, and nuclear arms control to advance America's interests;

Much greater reliance on international economics—not just to promote American prosperity—but also as an explicit instrument of our security goals;

Strengthening America's alliances by ensuring they are based on equality rather than dependency;

Engagement in the developing world in order to promote open societies and economic opportunity.

Enlightened engagement means translating the global diffusion of economic, political, and military power—the defining reality of our age—into an opportunity for new American leadership.

America's Past Foreign Policy Frameworks

This framework flows from America's history. In our 210 year history as a nation, we have had three frameworks for our foreign policy—three different sets of basic principles and goals that guided our relations with the world.

The first framework is generally known as "isolationism," and it guided us until roughly the end of the 19th century.[3] To be sure, we were not closed to the rest of the world like an earlier Japan. Instead, we believed that our noble experiment in democracy would energize the drive for freedom in other nations. We were also commercially active by the standards of the day. But during the isolationist pericd, we were reluctant to involve ourselves with other nations in formal alliances, in wars outside North America, or in diplomatic commitments that reached beyond supporting commercial enterprise.

It may startle some to say our Founders were isolationists. But by today's standards

[2] A superpower may still have the ability to win in an abstract sense: in theory, we could still be fighting in South Vietnam and holding on to most of that country. But, increasingly, a superpower can no longer do so at a price it can afford to pay, at home or abroad. While its will to make the initial commitment may have been strong, it cannot sustain that will in face of a price wholly disproportionate to the potential gain. One of the easiest pitfalls a major power can fall into is making a long-term commitment based on a short-term calculation of will.

[3] There is no precise date when any of our frameworks change; the rise and fall of their influence on our policymaking are gradual. But by the end of the 19th century, we had embraced Manifest Destiny, entered into war with Spain, and acquired the Philippines. America, by this point, had begun its entrance onto the world diplomatic stage. Within two decades, we would be engaged in a major European war.

they were, and they had good reasons for thinking as they did. We were not a strong nation. Our armed forces were small and weak. We did not have the wherewithal to engage in international power politics.[4]

But another element of our Founders' isolationism was related to our system of government and is fully relevant to us today.

Our Constitution was crafted with the foremost goal of preserving domestic liberty. To that end, the Founders created a government of separated powers that would be constrained by public opinion and have great difficulty acting precipitately or unilaterally. The system of checks and balances they designed remains an inspired guardian of domestic freedom, but it placed inherent constraints on our engagements abroad. Unlike monarchies of the time, our government could not make most decisions quickly and in secrecy, and then insulate those decisions over many years from domestic pressures, press scrutiny, or public opinion.[5]

The Constitution's constraints on our foreign policy were not, in practice, very constraining for our Founders. Most of them subscribed to George Washington's view, expressed in his Farewell Address, that we ought to avoid foreign entanglements.[6] Recognizing the realities of America's geographic safety, they constructed a system of of government that put the burden of proof on our leaders to form consensus for any foreign engagements.

In time, America's power so expanded that we increasingly projected our power abroad. Around the turn of the century, we entered the period of our second framework, which might best be called, "Making the world safe for democracy." The phrase came from Woodrow Wilson, but we began acting on it earlier, in 1898, when we went to war with Spain (in part over Spanish suppression of the insurrection in Cuba). Its high point was our entry into World War I and Wilson's Fourteen Points. We fought a "war to end wars," and we sought a peace based on national self-determination, justice to all nations, and the evolution of Europe into liberal democracies similar to our own.

The failure of the Versailles Treaty to embody Wilson's Fourteen Points, the Senate's rejection of the League of Nations, and the League's subsequent impotence led us back toward isolationism in the 1920s. But the tragic consequences of our political, economic, and military retreat from the world quickly became clear, and we ultimately joined the war in Europe and Asia.

Roosevelt's hopes for the post-war world marked a return to the Wilsonian vision. Unfortunately, the "long twilight struggle" of superpower politics and ideological competition outran this vision in short order. But, like out first framework, "making the world safe for democracy" had elements that are timeless and inherent in our foreign policy. As our Constitution made permanent a bias against over-commitment abroad; Wilsonianism left its own grand and guiding value: human rights.

After Wilsonianism came our third foreign policy framework: containment. It was adopted in the late 1940s, and it continues today—although we are currently in a time of transition to a broader, more current, framework.

Containment was our response to post-war Soviet expansionism. Soviet coercion of eastern European nations into satellites in 1946–'48; sponsorship of communist forces in the Greek civil war; pressure on Turkey; continued occupation of northern Iran—these shattered our expectations of a peaceful, cooperative world order. While the war-devastated Soviet Union was relatively weak compared to the United States, it was strong when contrasted to its European neighbors, who had also suffered in the war.

President Truman recognized that direct American involvement was necessary to block Soviet expansion; local powers were simply too weak to counter it effectively. In 1946, he dispatched the U.S.S. Missouri to the Bosporus as a signal of American support for Turkey, and the era of containment had begun. In the minds of many, that era has never ended.

Permanent Values in America's Foreign Policy

Each of these three past frameworks responded to circumstances that have long disappeared. In the isolationist period, for example, we lacked the power to engage our nation extensively abroad. Today that is no longer true. But each of the past frameworks also reveals fundamental and permanent values which must guide America's future framework as well.

The first framework reveals the value we place on a foreign policy held in check by our constitutional form of government. After World War II, when we first emerged as a superpower, it seemed we could exercise an almost unlimited internationalism and impose our will abroad with ease. But that ease was only possible in a post-war world where we were filling a power vacuum—where the traditional great powers had lost millions of their people and much of their productive facilities.

As global power has been diffused over the 1960s, '70s, and '80s, it has become more difficult to play the role of an omnipotent power, and we have run head-on into the constraints against entanglement our Founders built into the Constitution. On issues as disparate as trade, NATO, and terriorism, our ability to act decisively abroad is shaped (as it must be) by public and press.[7]

Our Constitution's structural bias against foreign entanglements does not mean we must or should return to isolationism. A nation as powerful as ours is inherently a factor in the international balance. Our experience between the World Wars proved the point—at great human cost. We can no longer afford the luxury of isolationism.

Nor is the solution to search for ways to circumvent the constraints our government structure places on our foreign policy. Official dishonesty during Vietnam, excesses of our intelligence community during the 1960s and '70s, unconstrained covert operations—these were inconsistent with American values and, ultimately, were destructive elements of our foreign policy.[8]

Our foreign commitments must not reach beyond what our public will support, or institutions will tolerate, or our military and economic capabilities will sustain. But an internationalist foreign policy can be sustained if the merits of that policy justify an enlightened popular consensus.

Over the past few decades as the task of engagement has become more difficult, consensus has been eroded by unprecedented partisanship and divisiveness the Executive, the Congress, and the public about or proper role in the world. The more polarized the dialogue, the more each new administration tries to disassociate itself from its predecessors.[9]

But ideology does not provide a solid foundation for inspiring fear in our adversaries, confidence in our friends and allies, or agreement among our people. As consensus over foreign policy erodes, we have veered, in the words of James Schlesinger, from "self-criticism bordering on masochism" in the 1960s and '70s to "self-congratulation to the point of narcissism" in the 1980s.

While some of our policy makers subscribe to a policy of unilateral and indiscriminate interventionism, the American people have a far different—and better—vision. They will assert America's power and prestige abroad if a compelling case is made; but they are reluctant to intervene abroad except where Americans or American security is directly challenged, as with terrorism; where success is likely to come quickly and at small cost, as on Grenada; on a humani-

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[4] At the time of the War of 1812—which, it is useful to remember, we essentially lost—Great Britain's Royal Navy had more than 100 ships of the line. We had none. Sweden, Spain, Portugal, Turkey, and even the Kingdom of the Two Sicilies had more powerful navies than we did.

[5] As Alexis de Tocqueville observed in "Democracy in America," "a democracy finds it difficult to coordinate the details of a great [foreign] undertaking and to fix on some plan and carry it through with determination in spite of obstacles. It has little capacity for combining measures in secret and waiting patiently for the result."

[6] "Separated by a wide ocean from the nations of Europe, and from the political interests which entangle them together, with productions and wants which render our commerce and friendship useful to them and theirs to us, it cannot be the interest of any to assail us, nor ours to disturb them. We should be most unwise, indeed, were we to cast away the singular blessings of the position in which nature has placed us, the opportunity she had endowed us with of pursuing, at a distance from foreign contentions, the paths of industry, peace, and happiness; of cultivating general friendship, and of bringing collisions of interest to the umpirage of reason rather than force." Thomas Jefferson, Third Annual Address to Congress, 1803.

[7] The current problem with terrorism provides a good example. As Jefferson often argued, a free press is fundamental to the presevation of domestic liberty. But our free press has now become an instrument in the hands of our enemies, the terrorists. Much of terrorism's effect derives from the horrors delivered into every American living room by television. Our government is reluctant to act swiftly with military force in response to a hostage crisis when the public is bombarded nightly with tearful interviews with the hostages' families.

Here, as elsewhere, the contradiction between our institutions and the demands of the international environment is often acute. We do ourselves no favor if we ascribe the problem to congressional micromanagement or an absence of "rational" foreign policy goals and means. The root is fundamental: our government was constructed to be consistent with limited involvement in foreign matters—not with indiscriminate interventionism.

[8] Sadly, this same official disdain for openness and honesty seems to mark the current Administration's efforts on arms control and Central America. Indeed, there seems to be a facile arrogance along the lines of, "We know best, because we understand the Communist threat better than most Americans."

[9] This has produced some of the more quixotic strains in our foreign policy over the past two decades—from the Carter Administration's promises to "banish nuclear weapons from the face of the earth," to President Reagan's pledge to restore military supremacy.

The battle over the modernization of land-based nuclear missiles exemplifies this issue particularly well. The current Administration, which came to power preoccupied with the so-called "window of vulnerability" has now undercut the strong bipartisan consensus in favor of the only solution to the perceived vulnerability of our land-based nuclear forces—a mobile missile. This is politics, not strategy.

tarian basis, as in fighting famine in Africa; and, generally, where we act in concert with our allies. The public's attitude is not isolationist; but it is selectively internationalist.

To unite our political, military, and economic policies in ways that create and sustain public support for enlightened internationalism is one of the great challenges of the late 20th century. In an era of great change, challenge, and opportunity, it is less important that our foreign policies are "new." It is more important that they work—that they are idealistic in values, realistic in goals and means—and that they command the united support of our people.

The second past framework, Wilsonianism, reveals the value we place on human dignity abroad. Of course, the vision of America as an international apostle of human dignity emerged even before our founding—it was part of the reason the Pilgrims came to Massachusetts Bay, that Roger Williams established Rhode Island, and that the Catholics fled England to Maryland. Our Founders fought the Revolution over their rights as Englishmen, and they were profoundly influenced by the idea of the Rights of Man as propounded by the Philosophes of the French Enlightenment.

At times, the mantle of human rights was thrown over crass commercialism and imperialism. The "Open Door" policy for China, while helpful to the Chinese at a dark time in their history, was motivated less by moral concern than a search for American markets.

But it is easy to overstate such qualifications. The ideal of America as a moral beacon for the rest of mankind is profound and important. It has rarely been absent in our history. Indeed, nothing so defines America's character to the world as our sometimes troublesome but irrepressible conviction that our greatness must be matched with goodness. We can never overlook the tremendous power our idealism exerts around the world.[10] On America's borders, people are clamoring to get in, not out.

Human rights are difficult to export, and our expectations must be realistic. Certainly, the public is unwilling to support the sort of armed crusade for human rights that marked our entry into World War I, or to tolerate a naive view that every Third World nation could one day be a miniature of our own democracy.[11]

But the American public also resents leaders who close one eye to torture, persecution, or repression of basic freedoms—whether in the Gulag, the prisons of Chile, or the townships of South Africa—whether inhumanity is rationalized with the rhetoric of left or right.[12]

Even if we could enlarge human rights nowhere, we would still have the duty to encourage them everywhere. Indeed, America's soul always burns brightest when we speak truth to power on behalf of the powerless, when we stay the hand of those who would suffocate conscience, and when we give new wings abroad to the same human aspirations that won our own independence.

But the third past framework, containment, also reveals a positive value of American foreign policy: our healthy and determined opposition to Soviet domination and hegemony.

While the Sino-Soviet split has dissolved most Americans' fears of a monolithic communist juggernaut, Soviet imperialism remains real. Afghanistan is a brutal and ongoing example, as is Soviet repression of Poland through a standing threat of invasion under the Brezhnev Doctrine. It is right and necessary that we oppose Soviet expansionism vigorously. To be effective, our means may not always be those we used 40 years ago, but the goal is still imperative.

But there is a second notion of containment—an incorrect notion—which is less healthy. It is a tendency to believe that *every* hostile force is, at root, generated and controlled by the Soviet Union.

The Middle East provides an example. While the Soviet Union supports some nations and forces in the Middle East that are hostile to us, problems in that part of the world do not originate in Soviet action, nor would they disappear if the Soviet Union were not involved. Those who trace Libyan, Syrian, or Iranian anti-Americanism primarily to Moscow are in error. Moscow may be pleased by the result, but it is not the original cause. Indeed, the forces unleased by the Iranian revolution are hostile toward both Washington and Moscow.

This "credit Russia first" mentality, which sees the hand of a Soviet puppeteer guiding every movement or government hostile to us, often creates self-fulfilling prophecies. Heavy American pressure can drive such forces into the Soviet harbor as the only available port in the storm. Nicaragua is partly a case in point.[13]

A Framework of Enlightened Engagement

In sum, these are the values that guided our past frameworks. But now we must begin to create a new framework that can apply those values to a new and changing world.

Above all, a foreign policy framework for the 21st century must seize the opportunity presented by the most significant change of the past 40 years—the great diffusion of military, political, and economic power. Our framework must help us reach our foreign policy goals in a world where other nations are maturing politically and economically at a rapid pace; where Soviet expansionism continues to be a threat, but where exclusive concern with the Soviets is both insufficient and dangerous; where we still have tremendous military, economic, political, and moral power, but where, increasingly, we can only exercise that power by engaging other nations—not commanding them.

What, then, is this new framework? As we noted earlier, it might best be called *a framework of enlightened engagement.*

Enlightened engagement requires that we find better ways to exercise our leadership in a world where we can rarely impose our will. Rather than resisting change, we need to *use* it to our advantage. We must use forces such as the diffusion of power, nationalism, and the force of a growing international economy—forces largely beyond our control—to fuel our leadership and help move the world toward our goals. Enlightened engagement means allying with historic tides and channeling them toward our ideals rather than attempting to block those tides by standing in their path.

Our task now is to identify the strongest of these tides and propose how we might better use them to navigate toward our goals. There are four ways in particular.

Enlightened Engagement: Managing United States-Soviet Relations

First, we need to manage our relations with the Soviets in a way that reflects the increasing insufficiency of the notion of superpower domination.

It is natural and necessary to focus much of our attention on the Soviet Union. Since World War II, Soviet power—for the most part, its military power—has increased compared to ours. In part, this development was unavoidable, as the Soviet Union recovered from the damage it suffered in World War II. In part, it has been due to the Soviet Union's rapid technological evolution—for example, in development of nuclear weapons, and during the Vietnam era, when for 10 years we consumed immense defense resources while the Soviets invested theirs.

Yet it is only in the military field that the Soviet Union is a serious competitor. Its economy is a lumbering dinosaur, and even in past bastions of Marxism such as the French Intelligentsia, its ideology is now widely recognized as a fraud. Even when the Soviets supply arms and advice to communist forces attempting to seize power, their inability to follow through with long-term economic assistance often alienates their own allies.

As a result, there are signs of Soviet retreat in much of the third world. Angola and Mozambique have serious economic problems and have begun looking toward the west. The Vietnamese may be facing their own Vietnam in Kampuchea. The recent revolution in South Yemen revealed how difficult it is for the Soviets to exercise stable control.

Soviet military power has grown in the post-war period. But in our fixation with that fact, we have missed a major development—one that, in the long run, is more important. Other nations have grown in power relative to *both* superpowers to the point where the notion of a superpower has di-

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[10] Our idealism exerts such power despite the knowledge of observers abroad that the United States has often engaged in folly or worse. Foreign admiration for America derives, in part, from an appreciation of our capacity for self-correction through an open and participatory political process. The American civil rights movement is an example; as William Schneider has written, it has raised the aspirations of discriminated minorities in many places abroad, most notably, Catholics in Northern Ireland and blacks in South Africa.

[11] Without question, certain rights must be considered universal—including freedom from arbitrary imprisonment, from torture, from genocide; other rights should be considered universal—freedom from want of basic needs such as food and shelter. Our unequivocal support for such rights is best expressed by our support for the Universal Declaration of Human Rights, adopted in 1948, and by our nation's ratification this year of the Genocide Convention.

Yet we do a disservice to the cause of human rights if we insist, as some have, that the minimum standard for human rights abroad should be the full slate of rights we enjoy at home. At the margin, notions of "natural rights" will vary from culture to culture.

[12] As often noted, it matters not to the victim of repression whether his tormentors represent totalitarian or authoritarian regimes.

[13] There is little question that the Sandinistas have ambitions to establish a repressive, one-party state. Nor can we doubt their allegiance to Marxist-Leninist doctrine. There are also reasons to believe they harbor designs of regional hegemony that are contrary to our interests. But their local and regional ambitions and leftist ideologies do not necessarily translate into an equal desire to be a Soviet base or ally.

Our current designs seem to allow the Nicaragua junta to choose only whether it wishes to be ousted peacefully or by force. They are unlikely to choose either course. Since the instrument of our military efforts, the contras, also appears to have little chance of success, we find ourselves at a dead end, applying just enough pressure to guarantee a close relationship between Managua and Moscow.

minishing weight beyond the nuclear context. The rise of nationalism and the diffusion of power now mean that many secondary powers can frustrate the designs of a superpower; many regional powers are independent of both superpowers; and, ominously, several new forces are threatening to both the Soviet Union and the United States.[14]

This is a central weakness in our existing foreign policy framework. Containment focuses exclusively on the U.S.-Soviet contest. That contest is still real. The Soviets continue to be externally imperialistic and internally repressive. As the only two nations who share the capacity to destroy mankind, it will remain in America's interest to manage military and political imbalances and misunderstandings with the Soviets to protect them from leading to deadly miscalculation. Yet many nations and forces now stand outside our competition.

A major theme of a new framework must be the imperative of blocking Soviet misbehavior with one hand, while reaching out to new opportunities for American leadership with the other. President Truman was right to declare that the United States seeks to "strengthen freedom-loving nations against the dangers of aggression." But now his doctrine must be updated—to include better ways of containing Soviet expansionism, partly by rising to the foreign policy challenges outside our competition with the Soviets. For in a world where our military struggle with the Soviets is handcuffed by the arms race, our twilight struggle will increasingly be waged on political, ideological, and economic grounds.[15]

Enlightened Engagement: Economics as Foreign Policy

But enlightened engagement must also focus on the explosive growth of the global economy. The spread of trade and the changes in other economic relationships are now widely recognized, but their full implications for our foreign policy have yet to be explored.

We know how our factories and jobs have been changed by a new world market in which $2 trillion of trade and $50 trillion of capital and currency flows between nations each year. But what do these mean with regard to our competition with the Soviets, our alliances, or our effort to advance the cause of human dignity?

As we approach the 21st Century, we must elevate international economics to a primary instrument of foreign policy. To encourage peaceful economic and political development in Latin America, the debt burden that is crushing potential prosperity and new democracies must be lifted. To strengthen our ties to Canada, Western Europe, and Japan, we must stem the pressures for protectionism that threaten to rend our vital alliances.

Ultimately, our efforts in international economics must be as important to Latin America as the Alliance for Progress promised to be in the 1960s; they can be as important to our relations with Europe as the Marshall Plan was in the post-War period; they can be as important to our relations in Asia as our military forces in South Korea or our protection of the sea-lanes in the Pacific.[16]

Enlightened Engagement: Alliances Based on Equality

Enlightened engagement must also strengthen our alliances and friendships by basing them on equality rather than dependency. Our post-war military and economic alliances, NATO in particular, rank among the great achievements of human history. They helped stabilize a tempestuous European continent, contain the spread of communism, fuel the expansion of global trade, promote the spread of democracy, and protect our security in the Western hemisphere.

When these alliances and institutions of international economics were created in the 1940s and '50s, they reflected, not just local economic and security considerations, but a broad, common outlook shared by all participants. They also reflected a world in which the United States had overwhelming military and economic power, and in which our allies were weak both economically and militarily.

Today, we insist on clinging to the forms of many of our alliances, even when those forms prevent the alliances from reaching their goals. We simply can no longer ignore the dramatic changes within our relationships. Collectively, the NATO allies now have a larger population and economy than we do. Japan is the second largest free economy in the world and may be the largest trading power by the end of this decade. The economies we helped rebuild after the War are now our chief economic competitors. Our approaches to problems outside the geographic areas bounded by the alliances—for example, in the Middle East—are frequently divergent. The Western European view of the Soviet Union, and even more, of Central Europe, is often quite different from that of our current Administration.

Our formal political, military, and economic alliances cannot become like insects frozen in amber. The tension within our alliances signals an opportunity—an opportunity to strengthen our alliances by basing them on equality rather than dependency. To call for such evolution is not a threat to the values, economy, and security interests we will always share.

The threat, in fact, comes from a refusal to evolve—a refusal that generates increasing tension, mutual dissatisfaction, and, if left unresolved, will produce sharp, sudden breaks in the future. The current refusal to consider any change creates only a veneer of stability, a veneer covering growing inter-allied tensions symbolized by stalemate at economic summits, the growth of the European peace movement, and periodic congressional efforts to reduce American troop strength in Europe.

The real threats to our alliances come from old force structures in Europe that fail to reflect current military challenges; from Europe's concern that the current administration is unsympathetic—if not hostile—to the imperative of arms control; from currency regimes that allow wild exchange rate fluctuations and encourage pressures for divisive protectionism; from allocations of responsibility for foreign aid that, in some cases, reflect the strength of our allies in the 1940s, not the 1980s; and from military aid agreements with developing nations that reflect our restablished defense habits more than their emerging defense needs.

Enlightened Engagement: Encouraging More Open Societies

Finally, enlightened engagement must encourage and ally us with the growing movement toward open societies throughout the developing world. One of the assumptions of both the Wilsonian and the containment frameworks is that those nations would be friendly to us—that they would see us as the leader in the fight for freedom, the generous provider of aid, and the cultural model for their own centrist forces.[17]

Unfortunately for us and the developing world, these expectations foundered when, after World War II, the centrist forces proved weaker than expected. Indonesia, Egypt, major African states such as Ghana and Tanzania, and other rejected our democratic, free-enterprise model in favor of planned economics, single-party governments, or foreign policies with a strong tilt toward the Soviet Union. Other parts of the developing world, especially Latin America, adopted rightist, authoritarian approaches, often under military governments.

Now, 30 years later, an interesting thing is happening. Centrist forces and open societies are making a powerful comeback. Both the pro-Soviet socialist and rightist military models have failed. In their places, moderate forces, genuinely non-aligned, sometimes democratic, and increasingly market-oriented, are returning.

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[14] Radical Moslem fundamentalism is the most obvious. If Iran defeats Iraq and spreads its revolution, as seems possible, it will be of serious concern both to us and to the Soviets, who share a border with Iran and who have a growing population whose heritage traces more to the Koran than the writings of Karl Marx. The Middle Eastern pressure-cooker may well explode in a way that scalds Americans and Soviets alike.

[15] Some now seem to claim the Truman Doctrine advocated—above all other instruments of containment—providing U.S. military aid to countries facing Soviet-aligned insurgencies. In fact, Truman and senior figures within his Administration stressed that aid, trade, diplomatic, and military assistance were to play coequal roles in containment. Following the Doctrine's enunciation, the Administration went to great lengths to assert it did not represent an open-ended military commitment. George Kennan, and the Policy Planning Staff of the Department of State, prepared a paper on the Truman Doctrine. It underscored the fact that the Truman Doctrine was not "a blank check to give economic and military aid to any area of the world where the Communists show signs of being successful. It must be made clear that the extension of American aid is essentially a question of political economy in the literal sense of that term and that such aid will be considered only in cases where the prospective results bear a satisfactory relationship to the expenditure of American resources and effort." Similar statements were made by Dean Acheson, General George Marshall, and Truman himself. In a conversation with Undersecretary of State James Webb on March 26, 1950, Truman was asked whether he contemplated intervention in Vietnam to the same degree he had intervened in Greece and Turkey under the Truman Doctrine of 1947. "His reply was 'Absolutely not'." George F. Kennan, "Memoirs: 1925–1950," 1967; and Robert J. Donovan, "Nemesis: Truman and Johnson in the Coils of War in Asia," 1984.

[16] In a sense, we have come full circle from the time of our Founders. They shunned foreign entanglements to avoid alienating any of their trading partners, as trade was essential to the nation's economic health. It is even more essential today. But in the coming years, safeguarding our trading interests will require more entanglement with our allies—not less: we will need to lead them into patterns of cooperation and coordination essential to the expansion of world trade.

[17] By "centrist forces," I mean political factions and forces which moderate against repression or dictatorship on either the left or right, or which push for the use of market incentives in the nation's domestic economy. Our support for centrist forces need not be reserved for Jeffersonian democrats and Adam Smith free marketers. Our relations with China, Mozambique, and many others prove we can advance America's interests through engagement with nations that have mixed economics or less-than-democratic political systems.

In Africa, nation after nation has reduced economic controls to encourage market forces. In Latin America, moderate democratic governments have replaced military rule in Argentina, Brazil, Peru, Uruguay, Bolivia, Ecuador, Dominican Republic, and—to an extent—Guatemala, Honduras, and El Salvador. Other examples of a move to the center include Spain, Portugal, India, Malaysia, and—most recently—the Philippines. Indeed, the long-feared "domino theory" may be working in reverse—with contagious economic and political freedom toppling repressive regimes at both political extremes.

In many places, of course, dictatorships have strengthened their hold—in Ethiopia, Iran, and Nicaragua. Yet recent history reveals that dictatorships do poorly at satisfying domestic needs, and reliance on Soviet weapons may strengthen their grip only by diminishing their popularity. We should never overlook the attraction that political and personal liberty has even—or especially—in such societies.

If we are to seize the opportunity this historic trend represents, we must reshape our patterns of engagement in the developing world—patterns that were too often closer to meddling than genuinely assisting. To some of these nations, America seemed to follow a policy of "rule or ruin"—as we now seem to be doing in Central America. We demanded too much control and opposed for many years the right of nations to be nonaligned. Too often, we dictated who would govern the nation, and what sort of economy it would have. Ultimately, by dictating too closely how developing nations should react to the East-West struggle, we undermined their energy and our own effectiveness in limiting Soviet influence.

What should we do instead? There are cases where we can significantly help developing nations, and especically their elements of political and economic moderation. But usually it is by responding to their requests rather than by imposing our own designs. Examples include: military support to supplement a country's natural, nationalistic resistance to foreign invasion or domination; extending the principles of military reform to friendly developing nations; humanitarian assistance to respond to natural or man-made disaster; and economic support that will enable the people of developing nations to participate and benefit fully from the new international economy and became self-sufficient. Our actions will take the form of economic, political, diplomatic, and—where necessary—military engagement. But they must respond to local realities if we are to succeed in advancing America's interests.

The changing imperative of U.S.-Soviet relations, the growing international economy, the maturing of our alliances, the rise of more open societies—all these energetic forces of change are only threatening to a foreign policy that is brittle with age. In the context of a dynamic, forward-looking framework, they represent a tremendous opportunity. If united correctly, these forces can help us achieve all the goals of our past frameworks—they can contain Soviet expansionism, foster a domestic consensus for appropriate internationalism, and strengthen America's leadership for economic growth, human dignity, and global peace.

In short, our foreign policy goals have not changed. If anything, our goals for the next 30 years should be more ambitious than for the last 30. But if we are to achieve those goals, we must exert America's leadership through new means, using the forces of global change to supplement our already substantial power.

And that is the essence of enlightened engagement.

ENLIGHTENED ENGAGEMENT: A FOREIGN POLICY FRAMEWORK FOR THE 21ST CENTURY

LECTURE TWO

Let us consider a new foreign policy framework that can help us use the opportunities presented by a changing world to advance our long-standing ideals and goals in two areas. One is the most sustained challenge of this century—the need to contain Soviet expansionism; the other is the hitherto unappreciated opportunity for American leadership in foreign policy—international economics.

Managing U.S.-Soviet relations

The clearest point of consensus in American foreign policy is the imperative of continued resistance to Soviet expansionism. Moscow's drive for hegemony is not likely to dissipate in our lifetime. It is deeply rooted in traditional Great Russian chauvinism, the Kremlin's interpretation of communism, empire-building urges of the Soviet military, and xenophobic Soviet desire for "300% security"—for a world in which no one can threaten its security.

The question is not whether retraining Soviet imperialism should be an American goal; clearly, it should and it is. But in a world where U.S.-Soviet military engagement could escalate to nuclear conflict, we have a responsibility to search for better means of limiting Soviet expansionism than direct confrontation. While our goals reflect a constancy of purpose, we need increasing flexibility and imagination in tactics. Military confrontation and bluster have proved no more effective than excessive efforts at conciliation.

Dramatic global changes since the emergence of containment in the 1940s and and '50s suggest important ways we can improve our strategy with regard to the Soviets. Most important in this regard are the diffusion of power and the continuing rise of genuine nationalism. Those who lament these trends and the waning relevance of the concept of a superpower miss something here. If we can move toward the kind of world we want without the U.S. attempting to play the traditional role of omnipotent superpower, that is entirely to the good. We had no responsible choice but to shoulder that burden after World War II. But worldwide diffusion of power creates a markedly different situation for us, one in which we can achieve our objectives with far less direct, unilateral intervention on our part.

Diffusion of power and nationalism have created a world in which an expansionist power is contained more by the resistance of those it is attacking—local powers—than by the actions of another superpower. The Afghans are not fighting the Soviet invasion because we are pressing them to do so. Nor does the effectiveness of their resistance depend primarily on us, as important as our aid is. We were defeated in Southeast Asia by North Vietnam and its supporters in the South, not by the Soviet Union. Vietnam itself is now bogged down in a no-win war in Kampuchea. Again, resistance is rooted in local nationalism, not intervention by another outside power.

All this means that the goal of containment, while still necessary, can depend increasingly on local, rather than American, resistance to Soviet expansionism. We should still involve ourselves in resisting Soviet hegemony in some cases. But, given the mutual interest of the U.S. and the U.S.S.R. in avoiding armed conflict with each other, fostering nationalism and the growing strength of minor powers will help us advance toward goals we share with indigenous populations.

In addition, there is danger in assuming someone else's fight on the grounds we are better able to wage the battle. In such cases, local forces may become apathetic—as happened to some extent in Vietnam. Indeed, they may even turn actively against us.

This indirect approach to containment might best be summarized by a term borrowed from the Chinese: "Resisting hegemony while not seeking hegemony." [1] In essence, we help others contain aggression directed against them, but play a secondary, supportive role so as not to turn local nationalism against us.

U.S.-Soviet relations: Self-interested cooperation

Our foreign policy framework must also enable us to re-define the nature of the U.S.-Soviet relationship in an age of declining superpower dominance. Despite the rise of nationalism, the international diffusion of power, and the development of a global economy, our relationship as hostile nuclear powers is still of the greatest importance to all humanity.

Over the past 15 years, U.S. policy has vacillated unnecessarily and unproductively between the oversold hopes of detente and the simplistic pugnacity of the current Administration. Neither extreme has moderated Soviet duplicity, domestic repression, military built-up or global adventurism. It is unrealistic to hope we can change Soviet behavior either through "better understanding" on the one hand or military bluster on the other. Instead, we must seek to manage our relations with the Soviets, and we must always rely on means that are in our own interests.[2]

Enlightened engagement suggests a threefold approach for better managing policy towards the Soviets. First, we and our allies should fortify our own conventional defenses so they are adequate to assure our security and become the principal—and most stable—bulwark of deterrence. These defense improvements must be largely in the form of military reform—within our own military and throughout NATO. Military reform is the best strategy for the United States and Europe to create a credible conventional deterrent that could reduce our reliance on nuclear weapons to defend Europe.[3]

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[1] This was the title of a speech I gave on December 4, 1978 at the Chicago Council on Foreign Relations.

[2] Former German Chancellor, Helmut Schmidt, calls for such an approach in his recent book, "A Grand Strategy for the West." His approach, which he calls "cooperation on the basis of assured security," has two components. First, the free world must assure its security against Soviet aggression by its own strength, not on the basis of Soviet promises. Second, on the basis of assured security, the West should be willing to cooperate with the Soviet Union in mutually beneficial actions, as long as Soviet behavior is appropriate.

[3] The potential of military reform is a topic we address in the next lecture.

Second, we must engage the Soviets in a greatly expanded search for areas of mutual cooperation that work to our benefit.[4] The most important of these, clearly, is arms control.[5] A few points deserve emphasis.

Our immediate goal must be much more than reductions in our nuclear arsenals—although that is still a crucial step. Our goal must be the prevention of use of nuclear weapons—by anyone, for any reason. In a time of Gadhafis and Chernobyls, the first step toward nuclear Armageddon is as likely to come from terrorists, technical accidents, or superpower miscalculation as from Soviet malice.

The goal of preventing the use of nuclear weapons requires several critical steps. Reductions in destabilizing, first-strike systems; non-proliferation agreements; a freeze on weapons-grade fissionable material; jointly staffed crisis management centers; a major joint initiative to improve verification; and a nuclear test ban, must all be central to our agenda. The most critical objective is to make the notion of nuclear warfighting as unacceptable as possible for all nuclear powers.

As we pursue deep reductions in first-strike nuclear arsenals, we should make far greater use of asymmetrical agreements—asymmetrical, not in the benefit to each nation, but in the nature of the weapons exchanged. For example, to break the current stalemate each side should agree to verifiable limits on the systems the other side sees as most threatening. The Soviets must agree to substantial cuts in offensive forces, particularly their large ICBMs. We should agree to set limits on the testing and deployment of defensive systems.[6]

Arms control and crisis management are not the only areas in which we can engage in self-interested cooperation with the Soviets. We should also accelerate cultural exchanges with the Soviets, joint scientific efforts—say, into improving the safety of nuclear reactors—and joint humanitarian efforts around the world. We should challenge the Soviets to join us in combatting terrorism, stemming nuclear proliferation, and eradicating the worst of global malnutrition by the early part of the next century.[7]

But there is a third part to managing our relations with the Soviets. Enlightened engagement requires that we be flexible in tactics. We must be prepared to alter our policies when warranted by Soviet behavior—such as the invasion of Afghanistan or the Soviet-inspired repression of Solidarity in Poland. No fixed formula can determine our precise response to every Soviet action. There is a difference, however, between applying pressure on the Soviet Union in direct response to its adventurism—such as shoring up Pakistan after Soviet invasion of its border country—and abrogating cooperative efforts that are in our own self-interest.

Those who advocate nullifying the achievements of nuclear arms control because they object to the Soviet regime somehow imagine that restraining Soviet nuclear arsenals should be reward for Soviet good behavior. This is not just nonsense, it is a serious threat to U.S. security interests. Cooperation in areas of clear self interest—such as arms control—should not be used for short-term political objectives. We have more than adequate political and economic means to respond to Soviet misbehavior that do not require us to wound ourselves in the process.

Managing U.S.-Soviet relations: Regional applications

We have seen movements in Eastern Europe rising in protest to Soviet imperialist control and the incompetent management of their societies—most notably the struggle of Solidarity in Poland. Many Americans still hope these nationalist and popular movements will eventually help bring these states to independence from Moscow's subjugation. Yet Moscow's military domination must for now dim these hopes.

This kind of protest will likely increase in the future, particularly as the USSR makes more economic demands on these countries and has less to offer them in comparison to the West. While the Soviet empire in Eastern Europe is not likely to be overturned soon, the unreliable nature of the satellites will continue to keep the Soviet government off-guard.

Throughout the Third World, the exploitation of instabilities is still the cutting edge of Soviet strategy for gaining influence. The greatest danger is the risk of local crises escalating—perhaps by accident—to superpower confrontation. After a steady pattern of such confrontations in the Middle East in the 1970s—all mercifully stopping short of war—both powers learned critical object lessons about the hazards of Third World rivalry. We and the Soviets have had to recognize the dangers of heavily armed independent countries going to war in regional disputes over which we had relatively little control. Although we lack formal agreements, we and the Soviet Union must develop a far better understanding of "codes of conduct" to guide our actions in violatile areas of the world.

Ultimately, our decisive edge over the Soviet Union throughout the world is the strength and allure of our open society and economy. There is little the Soviet Union has to offer developing nations other than arms and raw commodities. For everything from tractors to trade credits to high technology, from books to blue jeans, the developing world is turning West—toward us, and toward our allies. The rigidities of the Soviet bureaucracy, ideology, and economy often hobble their efforts beyond their own borders.

A new dynamic is at work around the globe. Economic and political progress can be generated by tapping into the increasingly interdependent world economy. The "Four Tigers" of the Pacific Rim—Singapore, Hong Kong, Taiwan, and South Korea—did not achieve dazzling growth by depending on the military or economic hand-outs of either superpower. Those who have remained Soviet conscripts are still backwaters. We stand to benefit from this new dynamic. The Soviets do not. The irony of this approach would probably not be lost on Karl Marx. Enlightened engagement suggests that the bastions of capitalism adopt a strategy of letting the economic forces of history work to our advantage; time and the inherent unworkability of the Soviet system are on our side.

International economics as an instrument of foreign policy

The framework of enlightened engagement rests upon recognizing and channeling the forces of change to our benefit. The ability to use the forces of economic change extends beyond our goal of containing the Soviet Union.

International economics has been the poor cousin of foreign policy for the past twenty years.[8] The global economy can no longer be simply viewed as an arena for promoting American commercial interests. The international debt crisis threatens democratic forces abroad as directly as any political or military forces; protectionism strains our alliances as severely as any military deployment decision. Enlightened engagement requires that international economics become a primary foreign policy tool. For the rest of this century and beyond, international economics may well be our most important lever for strengthening our alliances, advancing the cause of human dignity, and supporting centrist forces abroad.[9]

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[4] The importance of finding such areas of "self interested" cooperation cannot be overstated. The U.S.-Soviet competition increasingly resembles Vienna and St. Petersburg in 1914: each mesmerized by the other, seeing little else, while the world was on the edge of fundamental change. The Hapsburgs and the Romanovs could only consider the question, which of them was going to win? But the real winners were an American republic that previously had not been a great power and an exile waiting in a cafe in Zurich, Vladimir Ilych Ulyanov.

[5] My proposals for arms control are detailed in a speech I gave entitled "The Future of Nuclear Arms Control: An Agenda for the 21st Century," in Geneva in January 1984.

[6] While it is important to continue our research into defensive technologies, as explicitly provided for in the ABM treaty, there is little justification for the Administration's dramatic emphasis on the so-called Strategic Defense Initiative.

There is little in the plausible advantages of SDI that justifies its likely costs. Those costs go far beyond the estimated trillion dollar expense. They include the damaging precedent set by the Administration's "redefinition" of the ABM Treaty, which amounts to unilateral abrogation; the undoing of four successive Administrations' work in managing our nuclear rivalry with the Soviets; and the incentive SDI will give the Soviets to accelerate their efforts toward their own defensive and counter-defensive systems.

[7] Such coopertive efforts serve a variety of purposes. People-to-people exchanges help remind the people of both nations that our quarrel with the U.S.S.R. is with their government, not with their people. Cooperative efforts can also help reduce hostility. The usual pattern of each nation seeking to aggravate the predicaments of the other is not necessarily the most advantageous strategy for either. Afghanistan offers an example. It is fully appropriate that we continue and even increase our support of the Afhanan freedom fighters so long as the Soviets insist on attempting to conquer that country. However, at the same time, we should make it clear to Moscow that we will actively support an "Austrian Model" solution to the Afghan problem, in which Afghanistan's neutrality would be guaranteed after a Soviet withdrawal.

[8] As recently as a decade ago, Henry Kissinger could boast that he knew little about economics. The emphasis on economic aid in the recommendations of the commission he chaired on Central America suggest his thinking has changed. Nonetheless, international economics since the era of the Marshall Plan has become a secondary concern for too many of our foreign policymakers. Structural analyses of our foreign policy apparatus are instructive. In the State Department, "political" positions are considered far more prestigious than "economic" positions. Not since the Johnson administration has international economic policymaking been coordinated or dominated by considerations of foreign policy.

[9] We have examples of the successful use of economic policy as a broad tool of foreign policy; too few, however, are recent. In the years following World War II, we created the Marshall Plan, the GATT trade process, and, at Bretton Woods, helped establish the IMF, the World Bank, and a new international monetary system. These stand among our proudest accomplishments; they served to strengthen our alliances and helped bring about an explosion in world trade.

Effective international economic policy is also indispensable to building a consensus for enlightened internationalism at home. As long as American workers and voters see the international arena as the central cause of our economic woes, forces of isolationism will be strong.

International economics: Promoting open societies

We have seen how the strengths of our economy can be used to compete successfully with the Soviets in the third world. Understanding and influencing economic forces is also critical for our attempts to promote open societies. From Costa Rica to India to Colombia to Japan, we see how economic growth and political freedom nourish each other. From the Weimar Republic to Peronist Argentina, we have seen the political costs of economic failure.

Latin America provides a clear example of how we should use international economics to strengthen centrist forces. Today a tide of hope and democracy is sweeping that continent. Brazil, Argentina, Uruguay, and others have all made giant strides toward free government. This is a praiseworthy end in and of itself. But it also benefits hemispheric security immeasurably.

At the same time, a monumental debt crisis threatens these fragile democracies. The success of our foreign policy toward these nations may stand or fall on our ability to address that crisis so our hemispheric partners can resume their economic progress and safeguard their political progress.

In all, Latin American nations owe nearly $400 billion in international debts—over 50 percent of their combined GNP.[10] For many of these nations, ruinous interest payments, IMF austerity agreements, depressed commodity prices, and capital flight have reduced economic growth to a memory and nearly obliterated it as a dream.[11] Argentina, Mexico, Chile, Peru and others have watched their standards of living drop while their debt rises. The crisis has no end in sight. It threatens progressive leaders, like Argentine President Alfonsin, while it gives Castro and others a new platform for demagoguery.

The debt distorts political relations with our neighbors by forcing unbalanced trade. As these countries struggle to meet their debt payments, they cut their imports of American crops, cars, and computers, and lower prices on goods they sell here to raise the dollars needed to make their debt payments. According to a recent study, nearly half of Latin American interest payments were generated by reducing purchases of U.S. products. Our declining trade balance with these countries has cost the jobs of nearly a million American workers—more, since 1981, than have been affected by trade with Japan.[12]

There is a better course. Our government should act more like a leader of global growth and less like a collection agency for the overextended banks. If we help expand Latin American economies rather than squeeze them, we can increase American exports as we strengthen southern democracies and our own security. We must break the chokehold these debts have placed on the development of free economies and progressive, centrist governments. All involved parties will need to help pay for past mistakes.[13]

The debtors themselves will need to ensure that relief is used to promote broad-based development—not to finance capital flight by elites. We must begin a new round of financial reporting negotiations to make sure that new funds are not returned to London, Switzerland, or New York as anonymous deposits or real estate investments of the Marcoses, Duvaliers or Mobutus of the world.

Debtor countries must also ensure their macroeconomic, tax, and regulatory policies encourage investment and growth. We must be flexible in designing such "conditionality" programs. Local political and economic realities must be taken into account.[14] But we must also ensure that aid and debt relief is not undermined by irresponsible, shortsighted, or inefficient economic management in the developing countries.

The banks must also do their share. It is no longer enough to build 90-day solvency bridges that barely span the next crisis.[15] Selected direct debt relief and—in some cases—corresponding writedowns, extended repayment schedules, interest rate relief, and new international lending mechanisms will be needed. The banks should know that full repayment of these loans is no longer tenable as a primary goal of U.S. policy.[16]

The international scope of this crisis mandates an international solution. In particular, Japan's emerging and special role in the new world economy must be recognized. As Japan moves into a position of greater wealth and prominence, it must accept new responsibilities—just as the U.S. accepted new responsibilities for the world's economy after World War II. The debt crisis—not just in Latin America, but in Africa and world-wide—offers a clear opportunity. Japan should make a substantial contribution to a multilateral development solution. It should increase its lending and direct investment in the developing world. Perhaps most important, both Japan and the European Economic Community must open their markets to developing country exports.

The U.S. will need to take the initative in coordinating solutions. We should convene a series of negotiations, undertaken on a country by country basis, that bring together debtors, lenders, and international lending agencies. Ten year capital plans must be developed, based on realistic economic and political assumptions, that offer blueprints for growth. The entire portfolio of private and public debt—not just this quarter's or this country's crisis loans—should be put on the table.

International lending agencies should help alleviate stress on both the countries and banks after these long term agreements are established. Any new funds necessary to provide a combination of interest rate relief, guarantees, purchases, or debt-for-equity swap programs should come from a consortium of international lenders.[17]

Encouraging open societies will require more from economic policy than solving the debt crisis. We must promote broad-based and balanced development throughout the developing world. Our aid policies should promote education, health, and other investments in "human capital." We must show a greater appreciation for the importance of small-scale farmers and appropriate technologies. We must insist that efficiency and equity are both protected by the governments receiving aid. Americans will not stand for funding boondoggle projects under the guise of "development assistance."

International economics: Strengthening our alliances

In addition to providing effective competition to the Soviets in the third world and to promoting centrist forces and open societies, economic policy is a critical tool for strengthening our alliances. Economic relationships should, by rights, promote and strengthen alliances. Yet we face a world in which trade seems to be poisoning our most important friendships—with Japan, with Europe, with Canada, and with the developing world. At a time when the language of conflict dominates discussions of interna-

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[10] Many of these loans were extended during the 1970s when the banking community was awash in petrodollars and growth rates in Latin America were still strong. Now, there is little prospect that the interest, much less the principal, on many of these loans can be repaid. American banks continue to participate because writing off these loans would entail massive losses. Latin American debts are greater than the total capitalization of the nine largest U.S. banks. Interest payments by Latin America to these banks are larger than their total profits.

[11] Capital flight is one of the most serious financial threats to many developing nations. Much of the free-flowing loans of the '70s never even reached the people of Latin America or Africa—they were used to swell the Swiss bank accounts of political and economic elites. More than $100 billion flowed out of the five major Latin American debtors over the past ten years; this represented more than a third of the total amount lent to the countries. Each debtor has its own history, culture, and problems, and our approach to each must respect those differences. But capital fight is an important problem in many, and our policies must take this into account.

[12] The disappearance of American jobs further fans the flames of protectionism. Yet protectionism would only compound the problem. Restricting imports from Latin America would force these countries to cut back on their purchases of our exports even more severely—and reduce U.S. employment even more.

[13] The Administration has, in the form of the so-called "Baker Plan," begun to move its rhetoric in this direction, but has backed it up with precious little in the way of long term solutions.

[14] The IMF has failed to take into account local conditions in designing many of its austerity programs. Both the long term impact of austerity on development and the short term effects on large segments of society have too often received short shrift. A similar inflexibility about means appears to be one impediment to the Baker Plan.

[15] It has become fashionable to assert that the debt crisis is all the result of "wild" lending on the part of imprudent American banks during the 1970s. This is true only to an extent. Most lending was made before international growth collapsed in the wake of the developed countries' attempt to contain inflation by limiting growth. The possibility of disinflationary monetary policies was, however, a risk the banks took.

[16] The banks continuing role in the long term solution is, however, a fundamental goal; continued lending will be necessary. Further, the stability of the international financial system is essential. A wide variety of regulatory and tax "carrots and sticks" will be needed to balance these objectives. Banks should know, however, that their solvency is ensured only to the extent that they continue to participate in long term solutions. The degree and type of debt relief will vary widely from country to country. Mexico's imminent crisis inflicted by the collapse in oil prices requires different approaches than do the long-term needs and growth plans of Brazil.

[17] Beyond the current crisis in Latin America, we must face the challenges of meeting the borrowing needs of poor countries throughout the world. Africa's debt problems involve much smaller sums than those of Latin America.The needs of flexible and dependable sources of funds are even greater. The importance of free trade with these countries is also critical. We should offer the provisions of the Caribbean Basin Initiative to all of the "LDDCs"—the least developed developing countries.

tional trade, all pressures are for less trade—not more.

If our alliances and friendships are to survive the next few decades, we must remember that protectionism is isolationism—no less dangerous to our people or our alliances or our collective security than the isolationism of the 1930s. The economic pain many of our people feel because of trade is real, as are the flaws in the world's trading system. But we must address these flaws directly, not paper them over with political demagoguery or trade restrictions that would suffocate prosperity and alliance.

We need policies that address the two root causes of protectionist sentiment. First, we must repair an obsolete and dangerously unstable system of international finance and macroeconomic cooperation. Second, we must increase and spread the benefits of trade to American workers by easing the costs of adjustment and promoting productivity growth and competitiveness.

Uncoordinated and irresponsible macroeconomic policies have caused the persistent and unprecedented trade imbalances of the eighties. U.S. federal deficits have been larger than the entire economies of all but a handful of countries.[18] Our deficits produced high interest rates and an overvalued dollar that taxes U.S. exports and subsidizes foreign imports.[19] Explosive swings in the dollar have whipsawed international prices by more than 50 percent over a period of mere months. These and other financial and macroeconomic factors rob our firms and workers from the chance to compete on the basis of their relative productivity.

Understanding the financial and macroeconomic grounding of the trade crisis is no new insight. There is near unanimity among economists (a minor miracle in its own right) that unfair trade practices abroad account for less than 20 percent of our trade deficit. Yet year after year, politicians incite resentment against our allies rather than identify and tackle the real causes of our trade woes. This tactic is not populism; it is demagoguery, and it represents one of the greatest isolationist threats to the security of th West in the coming decades. The politics of blame threaten to accomplish what the Soviets never could—the rending of the Western alliance.

The U.S. should take a lead role in overcoming these trade imbalances—first, by reducing our federal deficit. Increased revenues, decreased spending, and military restraint—not Gramm-Rudman or budget projections grounded only in fantasy—represent the clear path.

As we reduce the budget deficits, we must simultaneously encourage fiscal changes by our trading partners. Japan must also reduce its chronic trade imbalances.[20] West Germany and other countries with strong international positions must accept greater responsibility for world growth.

We can only achieve greater coordination on fiscal and monetary policies in the context of evolutions in the flexible exchange rate system. A new Bretton Woods conference—not a continuing series of high-publicity low-content economic summits—is necessary.[21] "Target zones" or some similar form of more explicit management of exchange rates must be developed. The effort of the leading industrialized nations—the so called "G-5"—to bring down the value of the dollar deserves praise. But this intervention came far too late. A target zone system would help force cooperation by leading to a set of long term institutions and mechanisms that prevent realignment from coming too late again. Such an effort will require more from our allies as well as from ourselves. The diffusion of economic power must be matched by a new allocation of responsibility.

Revamping the financial system will significantly limit protectionism threats to alliances, particularly in the short term. But expanding trade, like technical innovation, represents what the economist Schumpeter called "a gale of creative destruction." We engage in trade for the same reason we invent new ways of doing things—to increase our standard of living. As with new inventions, change results in jarring dislocations.[22]

Protectionism purports to prevent the pain of trade. Positive adjustment and productivity policies will allow us instead to reap its benefits.[23]

We need to increase the scope and effectiveness of Trade Adjustment Assistance—not eliminate it as this Administration has consistently proposed. We need new and effective job training programs. Firms that demonstrate a willingness to make the long term investments necessary to modernize should be able to receive financial and technical assistance.[24]

More important, we need to promote flexibility and competitiveness before the winds of change become destructive. Competitiveness will not materialize out of thin air. No invisible hand builds the roads, the schools, and the research laboratories necessary to move our economy into the twenty first century. We need an explicit and ambitious set of investments in our future.[25] We must invest more in specific, targeted programs even in a period of severe budgetary restraint.

Indeed, the longest term threat to our economy is the loss of productivity growth. How can we expect to grow at home or compete abroad when savings and literacy rates are too low and unemployment and dropout rates are too high? I have spelled out elsewhere a comprehensive program to improve American productivity and international competitiveness. A new High Tech Morrill Act, the American Defense Education Act, a National Corporation for Cooperative Laboratory Research, increased export promotion, and a permanent commission on competitiveness all represent effective and necessary ways to increase productivity and competitiveness.[26]

These policies must all be tempered by a clear perception of the interests involved. When we aid an ailing industry, we must ensure that any benefits it reaps from government programs are used to promote improved productivity.[27]

While we resist protectionism domestically, we must insist it not grow abroad. We must strengthen trade laws at home and ensure that they are enforced. We should establish clear definitions of what constitutes unfair practices that include consideration of other countries' trade in services, high technology, agriculture, and failure to combat counterfeiters and pirates of intellectual property. Once we determine that a country is engaging in unfair trade practices sanctions should be automatic. The President should not be able to suspend sanctions except in cases of certifiable national security threats.

We must reaffirm and expand the GATT process. International trade rules must be modernized in a new "Growth Round" of multilateral trade talks. Extending and modernizing GATT must be accompanied by strengthening its procedures for dispute settlement.

Sensible trade policy will strengthen our alliances in endless ways. By developing methods of international coordination and domestic investment, we can promote positive competition—competition that enriches all and encourages economic peace.

Conclusion

We have seen how international economic policy can help us compete with the Soviets, promote the forces of freedom and decency, and strengthen our alliances. International economics must be raised to its rightful place among the primary tools of foreign policy.

Some will think economics too dry or technical a field for such emphasis. But it is not dry or technical to the people of the world we want our foreign policy to reach. The average cab driver in La Paz sees clearly how debt payments constrain progress in his country. The average farmer outside

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[18] Our deficit in 1984 was roughly half the size of the economy of the United Kingdom, about the same size as the entire Australian economy, and larger than the combined economies of South Korea, Hong Kong, Taiwan, and Singapore.

[19] The dollar's recent decline is very welcome and will, in time, temporarily lessen the trade deficit. Yet as long as the fundamentals go unaddressed we have no assurance that the problem will not crop up again.

[20] Even a recent Japanese government commission recognized the importance of overcoming that country's structural dependence on exports. Japan should adopt the recommendations of its own Maekawa report.

[21] Many of the policies discussed in this section are included in The Competitive America Trade Reform Act of 1986, a comprehensive trade bill I have introduced in the Senate. Title One of the act lays out a specific agenda for international monetary reform.

[22] Many of these points become clear when we consider the potential impact of the entry of China into the world economy. For those who see only the threats of trade, the notion of a billion well-equipped Chinese workers, each of whom is glad to work for what Westerners would consider a pittance, is terrifying. Those who see China as a potential giant market understand that economic liberalization in China could be the sharpest spur to global economic growth in the next century. The only way the latter can occur is for the fears of the former to be addressed.

[23] The central current debate on trade is dangerously limited. Much of the discussion makes it appear as if our choices are the current Administration's laissez faire policy and the new wave of protectionism. Policies that improve our competitiveness by increasing our productivity represent the cornerstone of a better approach.

[24] My trade bill lays out a set of reforms for the TAA program, including mandating training programs after a certain grace period and better coordinating benefits with Unemployment Insurance. Title VI of the bill also includes a revamped job training and business adjustment assistance program.

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[26] These proposals are described both in the comprehensive trade bill and in the Growth and Investment Initiative that I, along with Senators Chiles, Byrd, and others, proposed as a part of this year's budget deliberation.

[27] I call for the development of industrial modernization agreements in such industries. These would be compacts brokered by the President among labor, management, and sources of private capital. Under such compacts, labor would condition wage demands on productivity gains; in return workers would receive long term employment guarantees. Management would commit to long term investment and modernization in specific productivity plans.

Kinshasa fully comprehends how skewed development policies have depressed the quality of life for her family and village. And the average machine tool worker in Rockford, Illinois understands well that outdated trade rules are poisoning the way America views our Japanese and European allies. It is time for America's foreign policy to confront these realities as well.

We have no clearer way to engage our fellow men and women in productive cooperation. We have few stronger means to sustain a domestic consensus for enlightened internationalism. We have the chance to speak directly and convincingly to the people of the world about the benefits of a free and open society. And we must seize this opportunity for true enlightened engagement.

ENLIGHTENED ENGAGEMENT: A FOREIGN POLICY FRAMEWORK FOR THE 21ST CENTURY

LECTURE THREE

We have considered ways in which our foreign policy framework might view the challenges of the U.S.-Soviet relationship and the vast opportunities of the global economy within a new foreign policy framework. Now we must devise the tools needed to construct the other two pillars of the framework: alliances based on equality rather than dependency, and the encouragement of open societies around the world.

STRONGER ALLIANCES BASED ON EQUALITY

First, our alliances. Some argue that America's alliances have outlived their usefulness; that we must increasingly act unilaterally, because our alliances stand in the way of decisive, self-interested actions. In fact, in an age of diffuse economic and military power, our alliances will be more vital for our security and prosperity—not less. If our alliances are not working adequately—and in some cases they are not—our challenge is not to abandon them, but to reform, modernize, and improve them.

Even in a changing world, we still retain permanent interests, and chief among these is the prevention of war, especially nuclear war with the Soviet Union. Our strategy of deterrence—extended to our friends and allies—has been the driving determinant of our foreign policy since the dawn of the atomic age.

STRONGER ALLIANCES: NATO

NATO is and must remain key to deterring war in Europe. The establishment of the NATO alliance is a crowning achievement of the post-war era. Alleviating strains within this 16 country partnership must be a central concern of a foreign policy framework.

The importance of NATO must not preclude reforms where needed. As suggested earlier, the absence of such reforms is most to blame for current tensions in that alliance. If we continue to resist change within NATO, it may soon look like the Holy Roman Empire in its last days, with everyone wondering what still holds it together.

Our fundamental goal for NATO is to improve its ability to achieve its most basic objective—preventing war. Many of the strains in the alliance arise from the realization among all NATO partners that nuclear conflict, either initiated at the strategic level or in Europe, is not acceptable. At the same time, the only solution to this threat—sufficient conventional forces to preclude nuclear escalation—is resisted by many countries. The continued failure to field an effective conventional deterrent—conventional forces which provide for the common security and inspire confidence among both NATO governments and publics—in the key vulnerability of the Alliance.

The continued ineffectiveness of our conventional deterrent is not just the operational Achilles heel of our alliance—it is the overarching metaphor for our inability to assure public confidence in our security strategy. The knowledge that our vulnerable conventional forces might lead to early use of nuclear weapons in a crisis is no mere abstraction to the residents of Bonn, Brussels, and the other cities where war would be waged.

To improve NATO's deterrent, we need to alter dramatically its fragile "forward defense" cordon. Today, NATO's forces are deployed in a manner that resembles the French Maginot Line of the 1930s. The cordon defense is a continuing reason for our low nuclear threshold in Europe and our inability to lessen our dependence on nuclear deterrence at the tactical and strategic levels.

The lack of adequate operational reserves represents NATO's key weakness. Today, there are only two divisions in operational reserve: too few to wage an effective counterattack against a major Warsaw Pact breakthrough or to support a successful NATO counter-thrust. Quite simply, NATO does not have enough ground combat units, and no injection of technology or commitments to raise defense budgets by arbitrary percentages can make up for that deficiency.

The only realistic solution is to reform NATO's defenses, just as we need to reform our own military structure.[1] In particular, one key to the creation of a more adequate conventional deterrent is greatly increased European use of its military reserve system. We can also take steps to increase the combat capability of our ground forces in Germany, and we might consider increasing the number of U.S. divisions in Europe within current troop levels.[2]

But the foundations of common security are as much psychological as material. An inherent fallibility of the Alliance is the continued and corrosive notion of the U.S. as dominant partner—even as the other partners have grown to positions of relative equality. The myth of American domination of NATO undermines the sense of self-determination which all countries require to develop public support for their defense. And it encourages unnecessary political frictions by suggesting U.S. *diktat* as the reason for unpopular actions, such as modernization of intermediate range nuclear forces stationed in Europe or increases in defense budgets.

Notably, the one country which has experienced the least controversy in its defense policy is France. In large part, there is less controversy because France has taken primary responsibility for its own defense.

To adapt NATO to changing times we must return to NATO's original goal: A Europe primarily responsible for its own defense. That was quite explicitly NATO's original purpose.[3]

We must evolve from an alliance that reflects European dependency on the United States to one based on equal partnership. To that end, we should begin negotiating with our NATO allies to consider ways we might restructure military burdens in Europe in the coming decades. For example, at some time in the 21st century, the United States might assume more of the air and sea defenses and Europe, more of the burden of land defense—an allocation that would better reflect our relative comparative advantages.[4]

I stress: any move to alter NATO doctrine and forces should be evolutionary, and undertaken in full concert with our allies. But we must also make it clear we are not the Romans. We do not intend to stay in Germany for 300 years, or until we are driven out.

NATO is an enduring achievement of our post-war foreign policy. But for many, even the smallest detail in the traditional structure of our Alliance is considered sacrosanct. Anyone who suggests that it be changed or reformed is labeled irresponsible, isolationist, or a heretic. The domestic political cost which accompanies reform proposals has become so high that the debate over how we can strengthen the Alliance is forever put off to another day.

Recognizing NATO as a real partnership, rather than an aggregation of subservient states, can only result in a stronger, reinvigorated Alliance. But it also imposes some restraint on the United States. We must not attempt to alter NATO policies unilaterally.

The most recent and damaging example of *droit de seigneur* exhibited by American leadership has been the President's Strategic Defense Initiative. With a suddenness and rhetorical enthusiasm born of a purely domestic impulse, the Administration has attempted to recreate NATO doctrine in its own image.

The Strategic Defense Initiative has inspired real fears among NATO governments and publics. Rightly or wrongly, it has fostered the perception among some that the U.S. desires strategic superiority; that we are seeking to sunder our commitment to NATO's defense; that we have little interest in arms control; and that we ultimately intend to prosecute U.S.-Soviet differences on NATO soil.

Fueled by the U.S. failure to achieve progress in arms control, these fears have inflicted incalculable damage on NATO cohesion. The recent U.S. decision to abandon the limits of the SALT II Treaty—in spite of European entreaties—has further poisoned the atmosphere. Even as the quixotic prom-

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[1] For the details of military reform strategy, see *America Can Win* by Gary W. Hart and William S. Lind (Bethesda: Adler and Adler, 1986). More specific proposals for NATO appear in my speech at the University of Edinburgh, January 1985.

[2] Dr. Steven Canby, one of the architects of military reform, has proposed specific ways to accomplish such objectives.

[3] As Stephen E. Ambrose writes, in *Eisenhower*,

"The second objection [to the creation of NATO to which Eisenhower responded] was that the United States was committing itself to an indefinite defense of Europe, at a tremendous cost that would continually go higher. Eisenhower admitted the force of the objection. 'We cannot be a modern Rome guarding the far frontiers with our legions,' he said. He recognized that the economic strength of the United States was the greatest asset the free world had, and he agreed that the expenditure of billions of dollars for defense would, in the long run, bankrupt the United States, thus presenting the Soviets with 'their greatest victory.' But he insisted that a program of support for NATO was a short-run proposition. American aid for NATO was essential now, in 1951, but it could be phased out rather quickly. To Ed Bermingham, he flatly declared, 'If in ten years, all American troops stationed in Europe for national defense purposes have not been returned to the United States, then this whole project will have failed.' "

[4] In a White Paper issued with Senator Robert Taft, Jr., in 1977, I outlined one possible strategy—emphasizing a stronger maritime role for the United States.

ise of the SDI recedes, the political task of rebuilding consensus for Western nuclear policies will be formidable. Unilateral and dramatic shifts in strategy are not the way to treat equal partners or achieve common security.

STRONGER ALLIANCES: THE DEVELOPING WORLD

The idea of independent states acting collectively on the basis of mutual interests should also guide our policies toward the industrializing, centrist countries of the developing world. The notion of the U.S. and the U.S.S.R. carving out spheres of influence, based on compliant client states, has been discredited and should have been discarded years ago. From Egypt's expulsion of the Soviets in the early 1970s, or our "loss" of Iran in the late 1970s, we have seen repeated examples of how the world has evolved far beyond the concept of client states—in military, economic, or political relations.

Acknowledging the true independence of these nations—including some friends and allies—may suggest to some a loss of control by the superpowers. But only by fostering that independence can we build durable alliances in the 1990s and beyond. Independent states may appear to be more of a nuisance in the short run, but they are inherently far more reliable in the long run. A country which sees itself as a client state, in fact, will never be a reliable ally because it does not bear responsibility for its own actions.

The advent of the Nixon Doctrine in 1969 marked a watershed in U.S. relations with the Third World. Its declared objectives—to promote military self-reliance among friendly countries in place of dependence on U.S. interventionary forces—was, in theory, an appropriate response to important historic trends. The doctrine responded to nationalism in the developing world and acknowledged the declining utility of traditional instruments of American power, such as U.S. troop presence, base rights and formal security alliances.

In practice, however, the Nixon Doctrine exported military technologies wholly inappropriate to the security needs of the recipients. In Iran, South Korea, and elsewhere in the Third World, by exporting excessively complex and sophisticated weaponry, we fostered dependence even as we claimed to do the opposite.

No county is more secure as a result of purchasing F-15 fighter aircraft if the threats to its security come from guerrilla insurgencies, if it lacks the infrastructure to deploy the planes, or if its military spending reduces social expenditures necessary to stem instability and crisis. No country's security is served by merely becoming a showcase for American military technology—especially when its own military lacks the training to use this technology in combat.

In the developing world, alliances and friendships based on equality means we must provide these friendly states with realistic and effective means of self-defense. We can start by extending the principles of military reform to Third World recipients—providing affordable, rugged, and effective defense equipment suitable to their regional security requirements.

But relationships based on equality also require that diplomatic and military arrangements strengthen the hands of our friends and allies in their own region. There is no better or more important example than the Middle East.

In the last half decade, American diplomacy has ignored too many of the Middle East's internal realities and, as a result, helped perpetuate a costly stalemate. Our common interests with both Israel and the moderate Arab states—preserving Gulf security and opposing the Islamic fundamentalist revolution, for example—are extremely important.

We should support certain Arab nations in these efforts, Egypt being the foremost. But we must not reward countries that try to block peace or that support intransigence, terrorism and anti-American radicalism. We have the right and duty to use our leverage, including over arms sales, to seek to influence their policies just as we do in other parts of the world.

Here, as elsewhere, if we are to base our relations on equality, we cannot expect to simply rearrange things to our liking. Attempts to do so can backfire in the face of local nationalism. What we can do—and what the Camp David process did so well—is try to construct a framework within which the local powers can take positive, mutually beneficial actions on their own initiative, reflecting their own independence. We should be actively doing this in the Middle East today. We are not, and because we are not, we have helped to perpetuate an unstable and dangerous status quo.

To strengthen our alliance with moderate forces in the region, we should reward leaders who demonstrate flexibility in their positions—leaders, like the late President Sadat, who are willing to accept the prerequisites of regional stability—most notably, recognizing Israel's right to exist. Our commitment to the survival and security of a free and independent Israel must never be in doubt.

ENCOURAGING MORE OPEN SOCIETIES AND CENTRIST FORCES

The fourth and final focus of our framework must be encouraging the centrist forces which are the best resistance to Soviet expansionism, the strongest guarantor of human rights, and the most powerful fuel for world economic growth.

Encouraging centrist forces implies engagement—political, diplomatic, economic, and sometimes military. We take pride in many past engagements—the Marshall Plan; our help to famine-striken Africa; our diplomatic assistance in launching the Camp David peace process; or our actions in assisting the transition of power from Ferdinand Marcos to Corazon Aquino in the Philippines.

Yet the notion of intervention often grates on the American prejudice against meddling in the affairs of other countries. In part, the public perceives intervention as too expensive—as in the case of foreign aid. Such perceptions have been exacerbated by incidents of the government over-stepping public definitions of ethical behavior—the CIA's involvement in sponsoring assassinations and coups, for example.

But the American public will support engagements for which our leaders have made a compelling case. We must think clearly about how and when intervention is justified and effective, and we must actively rebuild public consensus for an enlightened internationalism.

Much as we might like, no precise prescriptions can guide such actions abroad. In each case, the nature of our engagement will be determined by questions of strategic necessity, moral justification, international law, local history and politics, and—most important—the likely efficacy of our involvement.

Such considerations must especially be at the center of our debate over military intervention and the use of force. That heavy-handed military or economic interventions that characterized our early days as a superpower will seldom be effective in a world where power is diffuse.

In some cases, of course, we will have to resort to the direct use of American force—in the event of aggression against our allies in NATO, in ANZUS, or against vital countries such as Japan, Israel, or Korea. In most cases, however, enlightened engagement will help more indirectly—it will help nationalism resist hegemony; provide a basis for seeking negotiated solutions to regional conflicts; apply pressure for human rights; promote development by helping nations participate in world trade, and take the lead in improving the rules for our international economy.

OPEN SOCIETIES; ECONOMIC ENGAGEMENT

The first type of engagement should be economic. The demands of Third World coutries have moved from ideological nationalism to practical agendas for economic emancipation. The bankruptcy of the Soviet model as an example for Third World development can be the West's strongest weapon. But this will require a change in the orientation of our own policy.

For example, our policies toward the nations of Africa have focused too much on external threats to their security and too little on the more immediate internal crises they face.

In many parts of the third world, the slow and often torturous efforts of nations to achieve modernization are confronted by critical threats. Disastrous environmental and climatic conditions, political upheaval, tattered economies and other pressures have combined to place these states on an apparently permanent downward spirial. In Africa, this tragedy imperils not only untold human lives but also the struggle of black Africans for economic enfranchisement and political stability.

Without a resurgence of American and Western commitment on behalf of African development, per capita income in Africa will continue to decline over the next ten years, even under the most optimistic projections. It is anticipated that payments required to cover interest on Africa's external debts will be equal to two-thirds the aid money directed to the continent. Without a renewed commitment to Africa, instability throughout the continent will dominate the coming decades—as we have already seen in the coups an attempted coups in Ghana, Kenya, Nigeria and Uganda in the 1980s.

We must marshal the energies of public and private development efforts. Our goal must be to promote economic and agricultural self-sufficiency: to improve the yields of local farms; to control the most devastating diseases and famine; to create the infrastructure for subsistence; and to speed the development of a healthy, African private sector. The agricultural sectors in Malawi, Zimbabwe and the Ivory Coast have made remarkable strides. Botswana and Cameroon have managed their economies well. Between 1960 and 1980, literacy more than doubled among Africa's adult population. These success stories speak volumes for Africa's spirit of resourcefulness and perseverance—and we must nourish that spirit in the coming decades. Success in the future will also depend on American leadership to achieve increases in targeted, multilateral aid and debt relief.

A very practical step to assist Africa and lesser developed economies elsewhere would involve employing our intelligence satellites

on their behalf: to predict crop development; to monitor agricultural practices; to search for minerals, gas, oil, fish and other resources; and to assist in humanitarian relief efforts.

But our practical efforts to assist African nations in their development, must be accompanied by moral solidarity as well. Unless we take action within our power to end the murderous reign of apartheid in South Africa, many of our positive efforts throughout the African continent may be eclipsed.

Economic sanctions have rarely succeeded in achieving our foreign goals. The practical costs of such sanctions nearly always exceed their idealistic benefits. Recent experiences with grain embargoes demonstrate that withholding food to punish foreign nations is usually futile and ultimately counterproductive.

South Africa is a living and compelling exception. Our purpose in applying sanctions is well-defined: speeding the overdue transition to majority rule and disassociating ourselves from the repressive white minority regime. Ideally, this action should not be unilateral; for greater effectiveness, it should have the full support of our allies.

Failure to pursue an enlightened policy in South Africa will damage regional security and reduce our influence with with other African states. The imposition of such sanctions is not only morally justified; it is essential to advance America's interests in the region.

OPEN SOCIETIES: POLITICAL AND DIPLOMATIC ENGAGEMENT

Much engagement by the United States will be diplomatic and political. The restoration of democracy in the Philippines demonstrates the effectiveness of these means, however late our own efforts may have been. But engagement must mean more than providing safe passage to dictators minutes before the exhausted patience of their people turns to violence. Our policy must be capable of early, sustained and consistent advocacy for human rights and political freedom. It is not enough to respond to the crises of the moment. We must anticipate trouble spots around the world—especially where basic freedoms are denied—and be prepared to act affirmatively.

South Korea provides one of the best examples of how we should use political and diplomatic engagement. In this case, our mutual security interests are clear, recognizable and rooted in the histories of both nations. Broad political and public consensus exists in both countries about the need for a swift and strong response to any external threat to South Korea's survival and security.

Unfortunately, political progress has not kept apace of the industrial progress which has made South Korea one of the economic miracles of the post-war world. Facile parallels between the Philippines and South Korea are not instructive. But, on the other hand, we need not wait until the situation in Korea reaches crisis proportions before taking action.

The opposition New Korea Democratic Party—a democratic political force which fully appreciates the nature of the external threats to South Korea—makes no unreasonable demand by insisting that the next Korean presidential elections fully reflect the will of the Korean electorate. Responsible opposition leaders—and there are many—share our concern that internal instability not provide a pretext for external subversion or aggression. Such leaders also recognize that security and prosperity are reinforced, not weakened, by democracy.

We need not choose between a policy of timid neglect and one of choosing sides—seeing particular leaders or parties as more important than the establishment of the democratic process by which they are chosen. Instead, we have the ability and influence to encourage the moderate and pragmatic elements that exist in both the New Korea Democratic Party and the Democratic Justice Party.

By strengthening and identifying with such elements now rather than when it is too late; by using diplomacy and trade as incentives for internal accord (rather than using heavy-handed pressure which conjures up images of patron-client relationships)—by taking such steps, we exercise true leadership.

OPEN SOCIETIES: MILITARY ENGAGEMENT

Diplomatic, political and economic efforts—these are the means of choice for our intervention on behalf of open societies and centrist forces. But the United States also has awesome military strength, and it is a formidable task to decide where, and under what circumstances we should use that force. In providing for our common security and prosperity, and in defense of certain vital interests of the United States, at times we will be called upon to use American military power.

But direct applications of military power will be increasingly less effective in the face of continued diffusion of power around the world. Today, the resurgence of radical religious fundamentalism has a far more destabilizing effect on the third world than communist-inspired insurgencies. The shock waves from Tehran are reverberating from Cairo to Karachi to Kuala Lumpur. With its cadres of suicide squads, the forces of fundamentalist Islam have demonstrated the growing disutility of conventional military might in constraining those who consider death in the pursuit of their cause not only acceptable but a moral imperative.

There is no military solution—in the traditional sense—to terrorism. Together with our allies, we must use intelligence, our assets to infiltrate terrorist groups, identify their leaders and sources of support, and interdict their plans and operations by covert and para-military means. Terrorist groups must be isolated, denied financial and military resources, and effectively frustrated until they wither and disappear.

In more traditional national and regional conflicts, the use of American military force is not an instrument of choice, but one of last resort: the culmination of failure to resolve crises by other means.

The complexity and diversity of the global environment defies mechanistic prescriptions of when and how to use force. But some specific principles do exist:

First and foremost, American military forces must obviously be used to protect our security interests and those of our allies;

Second, we must clearly define what we are trying to accomplish—what are our political and military objectives. We must insist on tangible, obtainable political goals stated in concrete terms;

Third, the American people must support the use of their army (or other forces) in any sustained military operation and be fully cognizant of proposed levels of military force and potential costs—including of human lives; [5]

Fourth, we should commit our forces only after diplomatic, political, and other means have been exhausted and local forces are insufficient to resolve the conflict;

Fifth, we must be clear on how we intend to achieve our objective and what strategies, tactics, and doctrine we mean to employ; [6]

Sixth, we must have agreement on the command structure of any military engagement and insist that the role of civilians who make policy not overlap the uniformed commanders tasked with carrying it out;

Seventh, the proposed operation and our thinking about it must pass the test of simplicity—the plan of operation must be achievable in its execution.[7]

The twilight world of military engagement in a nationalistic era has been compounded by our temptation to use military force to overcome political and ideological hurdles. Too often we have tried, in our frustration, to make our armed forces a substitute for policy instead of an instrument of policy.

One astute observer has said it best: ". . . military forces . . . are designed, equipped, and trained . . . to fight and win on the battlefield. They are, in effect, a battle-ax." That puts it bluntly—but correctly. And it echoes the earlier direct distinction—lost on most American policymakers—put forward by Von Clausewitz: "Force is the means," he said. "To impose our will on the enemy is our object."

To avoid unnecessary and tragic loss of young American lives, and prevent national embarrassment and lingering Vietnam-like recrimination, it is imperative the difference between our goals—the objective—and the military force—the means—be constantly observed.

In the end, the most important guideline for military engagement must be the support of the people. Except in the necessary cases where security must attend single-stroke, rescue-type operations, secrecy is the enemy of public support. Simply put, we cannot invoke—as the Reagan Administration seeks to do—the national will in secret. Likewise, an administration which seeks overt support from the Congress for "covert" operations—as in Central America—sows the seeds of destruction of its own policies and invites widespread cynicism.

In the final analysis, the soundness of a foreign policy—including proposed instances

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[5] "The American Army really is a people's army in the sense that it belongs to the American people who take jealous and proprietary interest in its involvement. When the Army is committed the American people are committed, when the American people lose their commitment it is futile to try to keep the Army committed. In the final analysis, the American Army is not so much an arm of the Executive Branch as it is an arm of the American people. The Army, therefore, cannot be committed lightly." General Fred G. Weyland, Chief of Staff, U.S. Army, July 1976. Quoted in *On Strategy, A Critical Analysis of The Vietnam War*, Colonel Harry G. Summers, Jr., Dell Publishing, 1984.

[6] Colonel Summers has an excellent discussion, after Clausewitz, of the dilemma between strategic defense (containment) and strategic offense (liberation), as well as between mass (NATO) and economy of force (theater of operations).

[7] Colonel Summers best outlines Clausewitz' four guidelines: objective, offensive, unity of command, and simplicity. He also shows the difficulty we face in applying them in today's world.

Careful students may note some striking parallels between the guidelines for commitment of military forces laid down here and those put forward by Secretary of Defense Caspar Weinberger in a speech to the National Press Club, November 28, 1984. Earlier that year—in July to be exact—I successfully fought to have principles similar to those adopted into the Democratic Party platform at its convention in San Francisco.

of military commitment—must be judged by the degree it can withstand the sunlight of public debate and engage the wisdom and common sense of the American people.

In the continuing debate over Central America, these principles serve to define a course of action. The United States has legitimate national security interests in the region. We cannot allow any country in Central America—including Nicaragua—to subvert its neighbors or become a military base for the Soviet Union. If any nation in the region were to allow itself to become a new Soviet base, we would be compelled to take any action necessary, including military force, to remove those bases.

But military force is not the most effective means for addressing Central America's current realities.

Our experience in El Salvador is instructive. There, an escalation of direct U.S. involvement would have excited and enlarged the forces of anti-American nationalism, particularly if our involvement had meant support for the oppressive, oligarchic forces of the right. Instead, as a result of pressure from Congress and the public, we conditioned aid on progress toward democracy, land reform, and human rights. We used our best advantage over the Soviets—our ability to supply economic assistance and our willingness to promote change.

But we must do more to ensure civilian control of the Salvadoran military—by making it clear to the forces of the right that our aid depends on their obedience to the government's authority, by demanding they improve civil liberties and bring to justice those guilty of past crimes, by proceeding with land reform, and by rebuilding their ravaged economy in a way that benefits the largest number of people. This approach also applies to the new civilian governments in Honduras and Guatemala, beleaguered by oppressive oligarchies and politically ambitious armies on the right and by Marxist-Leninist guerrillas on the left.

In Nicaragua, as in other cases, the direct use of U.S. military force is currently unnecessary and counterproductive; the use of force without any serious effort toward negotiations cannot help us attain our goals. We must use as leverage the three factors that are constraining the Sandinistas most: their respect for U.S. power, their knowledge that the Soviets and Cubans will give only limited help, and their inability to destroy the broad opposition by the Church, press, and citizenry within their country.

Support for the "contras" increases our leverage in none of these three areas. Militarily, even their supporters do not contend the "contras" and defeat the Sandinistas. Internationally, our support for the Contras strengthens the Sandinista's claims on Soviet-Cuban aid. And domestically, the "contras" obvious dependence on U.S. support and direction weakens their patriotic appeal, cedes the powerful weapon of nationalism to the regime, and makes it easier for the government to discredit and harass the internal opposition.

Instead of playing to the Sandinista's strength, we should be using our own. We can provide leadership and focus the pressures of our regional and European allies on Nicaragua by initiating a serious diplomatic effort. We should demand bilateral and regional agreements with Nicaragua to constrain the Sandinistas further, rally our local allies, and remove Managua's patriotic rationale for its internal controls and repression. These actions can block the establishment of foreign militay bases in Central America, and the arms race there, prevent cross-border subversion, and encourage internal negotiations among Nicaraguan political groups.

Without question, we have the means to verify any such agreements. If Nicaragua were to violate them, the United States would still have the power—and much wider domestic and regional support—for decisive action. It is dangerous to imagine the Sandinistas have good intentions; but it is naive to think they will be swept away by the "contras"; and it is ultimately foolish to claim that military force is our best means for controlling Sandinista misbehavior. Our diplomatic, political and economic strength—and that of our friends and allies—is much more effective. Indeed, a policy of military force without diplomatic skill is like the difference between a fire raging out of control and one harnessed to produce energy for a city.

For some, the idea that military force is ineffective in Central America constitutes isolationism. To the contrary, it is isolationist and reckless to ignore regional dynamics and the interests of democratic governments throughout the area who repeatedly insist that they oppose American military escalation. Those who claim we should use Central America as a battleground to resolve East-West differences are misreading reality. To paraphrase one commentator, if we were less insecure about the Soviets and more confident about the benefits of democratic capitalism, we would realize history is on our side—in Central America and throughout the world.

CONCLUSION

More skillfully managing U.S.-Soviet relations; expanding our use of international economics; strengthening our alliances; encouraging open societies—these four areas of enlightened engagement illustrate the tremendous opportunities awaiting America in this era of global change.

In every American era, one dominant feature of world power has most shaped our foreign policy. In the era of isolationism, limited military power and an ocean of distance determined we would stand largely aside from the wrangling of the old world our forebears had left behind. During Wilsonianism, the rise of our economic and military might and Europe's internal division increasingly drew us into that wrangling world. In the era of containment, that economic and military might was called upon to protect a weakened post-war world from the menace of Soviet expansionism.

In this era of dramatic change, the emerging challenge for our foreign policy is the diffusion of global economic, political, and military power. It is already defining the reality of our age. Nuclear proliferation, tensions in our alliances, global trade and communications, terrorism, and the call of the world's peoples for self-determination—we could hardly ask for more compelling evidence.

Some Americans will understand the opportunity. They will understand that America has always sailed best on open seas and on the powerful tides of freedom we share with all humankind. These Americans will welcome the waves of change and steer confidently ahead.

But some will label any movement as retreat, withdrawal, isolationism.

They couldn't be more wrong. The threat of isolationism today does not come from those of us who urge new methods in the application of American power.

The real threat of isolationism comes from those who would elevate their rejection of arms control into an ideology that destroys prospects for a more stable world.

The real threat of isolationism comes from the advocates of SDI who are undercutting the cohesion of our NATO alliance.

The real threat of isolationism comes from protectionists who would build walls around our economy and prosperity.

The real threat of isolationism comes from those who would ignore the debt crisis of Latin America and allow new democracies to perish.

The real threat of isolationism comes from those who would neglect diplomacy and thus frighten our people into believing that internationalism will always entail loss of American life.

The real threat of isolationism comes from those who would close America's heart to flagrant denials of human liberties abroad.

The real threat of isolationism comes from those who would close their eyes to nationalism and the diffusion of power as the world map evolves before our eyes.

Enlightened engagement is a rejection of isolationism; and it is a rejection of traditional, bipolar containment. It is a recognition of a fundamental new truth—that the diffusion of political, military, and economic power is an opportunity for America. Grasping this reality will vastly increase—not decrease—America's influence.

Engaging our economic partners in a search for stronger rules of finance and trade will increase America's prosperity. Engaging developing nations in their march toward self-determination will increase America's security. Engaging the world in a cooperative fight against terrorism will increase America's safety. Engaging our allies in military reform will increase our collective confidence. Engaging the Soviets in serious arms control negotiations will increase the likelihood we will reach the 21st century—and the 22nd.

Let us seize this moment. Let us navigate the currents of change and reach a new world beyond. Let America's age of opportunity begin.

COMMENCEMENT ADDRESS OF VIRGINIA LT. GOV. L. DOUGLAS WILDER AT THE UNIVERSITY OF VIRGINIA

Mr. WARNER. Mr. President, this is the time of year when commencement exercises are held and America welcomes its graduates as they assume their responsibilities in our society. It is also the time of year when families recognize fathers, the past Sunday being observed as "Father's Day."

The coincidence of these two periods prompts me today to speak of two very joyful fathers who attended recent exercises at the University of Virginia when their children were awarded degrees. The two fathers, today, friends through serving in elective offices in Virginia, once aspired to be students themselves at the University of Virginia. One, coming from a family with deep roots in Virginia, was readily accepted, and graduated in law in 1953. The other, with an equally proud family heritage with deep roots in Vir-

ginia, was summarily denied admission, for he was of the black race.

This denial, an accepted policy of the times, did not deter him from going forward to distinguish himself as a soldier fighting for freedom, a distinguished career as a Virginia State senator, and in 1985 becoming the first black in this century to be elected to statewide office in Virginia.

The two fathers returned to the university. Last year, it was my privilege to give the baccalaureate address at the University of Virginia, and for graduation this year, L. Douglas Wilder was privileged to deliver the principal address. A humble, but proud Virginian and father, the Lieutenant Governor said:

The fact that my son finished his undergraduate studies here and that my daughter is in this year's graduating class warms me with a poetic and an ironic justice.

Mr. President, on behalf of the university, the graduates, the parents, the faculty, and all others in attendance, who listened intently with a feeling of warmth and who departed with a feeling of pride, I read Lieutenant Governor Wilder's memorable speech into the RECORD of the U.S. Senate.

The speech follows:

EXCERPTS FROM REMARKS MADE AT COMMENCEMENT, UNIVERSITY OF VIRGINIA

(By Lt. Gov. Lawrence Douglas Wilder)

Dr. O'Neil, distinguished members of the faculty and Board of Trustees, parents, friends, and especially to the graduates of the class of 1986, I am very pleased to be here today.

To say that this is just another commencement address would be false. To say that it has no effect on me would be more false. The persons who have preceded me in speaking on these occasions are of such prestige and renown that this honor, while flattering, is humbling to me.

Much has been written about my not being able to attend this University during my time. The fact that my son finished his undergraduate studies here and that my daughter is in this year's graduating class warms me with a poetic and an ironic justice.

You graduates will bear witness in some future time to the things which changed, not just during your lifetimes, but during the active period of your lives; that time when changes took place either because of or in spite of your involvement.

None of us knows what the future holds in store for us, as life is not all a summer's dream for individuals, states or nations. We are born into this world and tossed upon the sea of fate. We live on faith and we live on hope and we steel ourselves to stand the rebuffs of life; we take it as it is, as individuals with the full understanding that nations are only aggregations of individuals.

We all love this country, but more importantly we love the freedom that has come from new ideas, from a constitution made by rebels and protected by rebels, from a constitution born in strife and tempest and rebellion. We love it because of what it has been, materially and spiritually.

The radical of today is the conservative of tomorrow. Thomas Jefferson, James Madison, George Mason, Patrick Henry, to name a few, brought forth a reform that gave life and meaning to this great country as we know it today. The fruits of their lives are plain for all to see; while time shall last, men and women, sons and daughters of all of America's people, will live by the light of freedom and be inspired by the hope of liberty.

Thoreau expressed it best, "The Universe constantly and obediently answers to our conceptions; whether we travel fast or slow, the track is laid for us. Let us spend our lives in conceiving then. The poet or the artist, never yet had so fair and noble a design but (that) some of his posterity at least could accomplish it."

So today, in this setting that has inspired so many for so long, you should resolve to meet the challenges. It is fitting to turn our focus to the paramount challenge facing your generation.

What with the spiralling health-care costs, the growing threats to our social security system, plus competing forces, your generation will be the first to feel the full brunt of supporting three generations of family.

Indeed, the premier challenge of America's twenty-first century is to define and decide how to accommodate the older generation and the rising generation with striking the proper balance as you yourselves become older—and take the leadership positions.

The challenge of your parent's parents was that they had to adapt to a country that was preoccupied with appealing to youth, and providing them with the most possibilities * * * but they happily did it by sacrificing for their children and their country.

The paradox is that technology, scientific, and medical advancement have made our life cycles and expectancies longer, thank God, so that our parents and relatives, though sometimes enfeebled of mind and of body, will be longer with us, directly or at some places entrusted with their care. Some will have the means but too many will not.

In addition to providing for your children things which you may not have enjoyed and at least that which you did enjoy, you must sustain yourselves and those persons who might not otherwise be able to care for themselves.

Your energies must be directed toward finding ways to collectively address this new dilemma and to solve it. Therefore it is necessary that we not sap our strengths with blind indifference to the plight of our fellows, nor content ourselves with selfish mediocrity.

This country of ours, conceived as it were and struggling to achieve an existence is tested year after year, month after month, day after day, to live out its creed, to meet, rather than to deny its problems, and to say to that talisman of destiny that we will persist until we succeed.

Each period in history presents its own set of challenges and we must be prepared to meet them. Those who have lived have not loved freedom more; in their span they gave to a world which knew freedom not, and it is ours to continue making contributions in new areas and challenging new issues.

We have come to see that this country's insistence on right can make a change. It did so in the archipelagoes of the Philippines, it did so with the ravaged despotism in Haiti, * * * and it will and must do so, in the blood-drenched townships of South Africa.

Not one of you has come into this world with any real advantage over any other, absent impaired health, and not one of you has entered into this world with any real disadvantage, under the same circumstances. Yes, there will be those who would be temporarily advantaged by things of a material nature which would make you believe that you can afford the luxury of not needing to know the precise person that you are and to likewise fail to engage in making the commitment to doing your part in making life meaningful.

And there, likewise, are those of you who would feel this station in life or accident of birth has so conditioned your life as to make it of no meaning, having no purpose and that it renders you unable to make any contributions because you have been disfavored. I'm not suggesting that this is a perfect world as it is not, nor will it ever be; but I've come to know that opportunities do exist, not necessarily those which one sees as opportunities at the time, but those opportunities must be taken advantage of to move ahead, as painstakingly slow on occasions as that might be, but always reaching up and out and looking to climb further up the ladder.

Changes have come; we see women, not only in the work force, but occupying positions of influence at every conceivable level of government and society. That didn't just come about. Some people believed it should and worked to bring it about—and it did.

We've seen blacks rise from what was a real permanent underclass, to compete at every level, if given the opportunity so to do, and to prove wrong those who felt they were humanly unable to perform at those levels. But this did not just come about. Some people had to believe it so and fought for it to be * * * and it did.

We've seen the creation of a middle America, sometimes comfortably forgetting how it came to be and sometimes saying to you and to me that they just came about.

Family ties are what made and make this country great. Any lessening of these bonds must be resisted and rather strengthened.

The trilogy of the generations of which I speak, your parents, yours, and your children, flow inevitably from the progress of life itself. The cynics, lacking vision, will use expediency to play one generation off against the other.

We might now better be able to understand that which was prophetically proclaimed in Ecclesiates: "Generations come and they go, and the Earth abideth forever * * * but the sun also rises."

We know that there is no new thing under the sun, and that regardless of what we as mortals do, the earth will be here.

Nature and history have slowly abided, while mankind's progress enabled the trilogy of generations to co-exist. Of all the previous times, yours is the opportunity to make that contribution that history will record as the time when love and respect for those who have given, and done so abundantly, has been not only remembered and revered, but permanently enshrined in the archives of achievers.

I congratulate you and yours for standing as anchors between the high possibilities of youth and the wisdom of the ages.

THE 1986 CONGRESSIONAL CALL TO CONSCIENCE

Mr. PRESSLER. Mr. President, I am pleased to be a participant in the 1986 Congressional Call to Conscience. This program is designed to focus our at-

tention on human rights violations against Soviet Jews.

In the U.S.S.R., Jews experience many hardships. They are persecuted and looked down upon because of their religion and culture. Soviet Jews are refused the basic privileges given to the dominant Soviet ethnic groups and are subjected to anti-Semitic publications and propaganda.

Jews have been harassed for many years by Soviet authorities; but since 1984, anti-Jewish brutality and persecution have intensified significantly. Jewish cultural activities and Hebrew teaching are considered antistate actions. False arrests of Soviet Jews on concocted charges occur quite frequently.

Filing an application to leave the Soviet Union makes life tougher for Soviet Jews. This simple act usually leads to even greater repression by Soviet authorities. Before one can apply to leave the Soviet Union, one must receive an invitation from a first-degree relative who lives in Israel. After this is completed, one must submit massive supporting documentation. Even if the applicant's family members themselves are not applying, letters are required from family members stating they do not object to the applicant's departure. Permission from military authorities is also required.

Most Soviet Jews who apply to leave their country lose their jobs. Professionals are often demoted and given nonprofessional work. Many of these people are subjected to surveillance by the KGB, conscription into the Soviet Army, arrest and imprisonment, expulsion from schools, and physical abuse.

The Soviet authorities frequently use the excuse of "considerations of state" in order to refuse Jews their right to leave the U.S.S.R. "Considerations of state" can preclude from emigration any healthy male over the age of 18, former military personnel who served at least 1 year, and employees who work for a "secret" industrial business or scientific institution. Many Soviet Jews have been denied emigration because the term "consideration of state" was applied to one of their relatives.

One such example is that of Vsevolod Berger, a physician specializing in hygiene and epidemiology, and his wife, Valeria, a doctor also. Vsevolod applied for a visa in 1977. His visa was refused that same year and again in 1979. The reason for the denial was that Vsevolod's father, a staunch Communist Party member and a former colonel in the Soviet Army, would not give his consent. The Bergers have no relatives in Israel, but Valeria has a brother living in Munster, IN.

Vsevolod lost his professional position after his first visa application. He was no longer able to get any other work as a doctor, so he became a guard at the same hospital where he had formerly worked as a physician.

After the Bergers' emigration denial in 1979, Vsevolod lost his position as a guard. The reason given for refusal was an "incompatible diploma." He was considered too highly qualified to do unskilled work, but whenever he attempted to obtain work in his own profession, he was told there was none in his specialty.

Vsevolod is now working part time in a sports clinic where he gives routine medical examinations to young swimmers. Valeria works in an outpatient department of a hospital.

We must let the Soviet Government know that we will not tolerate these human rights violations. There are thousands of Soviet Jews who remain in the Soviet Union, hoping and praying that their freedom day will come. We must insist that the Soviet Union permit religious freedom to be exercised by its citizens and that emigration be granted to those desiring to move to other countries.

FRANK BELLOTTI AND THE ENDURING VALUES OF THE DEMOCRATIC PARTY

Mr. KENNEDY. Mr. President, I would like to share with my colleagues an inspiring recent address delivered by one of Massachusetts' all-time great public servants, Attorney General Francis X. Bellotti.

Attorney General Bellotti is leaving office at the end of 1986 after 12 years of outstanding public service. Speaking at the Democratic State convention in Springfield last month, he addressed the past and future of the Democratic Party. In bidding farewell to the convention, he sounded an eloquent call for a return to the basic values of the Democratic Party. "What endures," he said, "is the general commitment to all of our people, to their happiness and to their dignity. The purity of this commitment is the very heart of the Democratic Party."

The address is filled with eloquent thoughts from a man who himself has demonstrated unwavering commitment and unparalleled compassion in all his years of public service. Massachusetts has been generously blessed by the vision and the service of Frank Bellotti. We will miss him in the years to come and in the battles that lie ahead.

Mr. President, I ask unanimous consent that the full text of Attorney General Bellotti's address may be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

REMARKS OF ATTORNEY GENERAL FRANCIS X. BELLOTTI AT THE MASSACHUSETTS DEMOCRATIC STATE CONVENTION, SPRINGFIELD CIVIC CENTER, FRIDAY, MAY 16, 1986

It has been a long, hard road, with many turns, that has brought me to this time and place—to stand before you tonight with the singular honor of representing the Democratic Party.

I speak to you as someone who has truly grown up with the Democratic Party—not just because I have been in Democratic Party politics for three decades, but much more important, because growing up poor, it was my support, my source of opportunity, my inspiration.

And as we begin this convention, I can feel the same strength and vitality that made the Democratic Party the powerful force for social change that it was in those early, difficult years.

In the 20's and 30's, there were no pensions, no medical benefits, no job benefits, no child care, no elderly programs. We were a generation that grew up in a depression, trying to survive in a world where we always seemed to be on the outside.

We did not turn on the radio at night and hear editorials about the "quality of life". We did not open newspapers in the morning and read feature stories about "lifestyles". In those "good old days", we talked about, thought about and planned for—survival.

My father was gassed in the First World War and stayed in a Veteran's Hospital until I was 16, when he died. My mother supported our family on the unequal pay that women earned—so I know what discrimination is and I know that the ERA is not a feminist issue—it is a survival issue—I also know that I could not have lived—or ever have become educated without what we call social or democratic legislation.

The values we learned then were the values of human dignity and personal sacrifice. We learned that government had to protect the worker, the young, the elderly—the people.

It was during this time that both institutions and individuals had a natural alliance with a strong central government, a government that was perceived as necessary to coordinate the economic and social programs that could put our world back together again.

It was a time when liberal values and liberal assumptions went virtually unchallenged.

And then it all changed. Our party and our programs were so successful, our precepts so unassailable, that we did not see the urgency of new problems on the horizon. We had remembered all of the answers, but we had forgotten the questions.

For a while, we stopped talking to all of the people. We talked to narrow constituencies and we addressed narrow problems. We still cared, but it didn't show.

The warmth and humanity of personal leadership, with all of its frailties, was submerged. We developed a whole class of technocrats, managers and statisticians to give us supporting data for our assumptions, to help us fine tune our solutions. We formed committees and blue ribbon commissions to make our decisions.

And something very important was lost along the way. Many of our political leaders gave away their power to make the decisions and lost their will to fight for the individual.

When political leaders stopped asking the important questions and began hiring man-

agers to give them the right answers, they became farther and farther removed from the human aspects of decision making. Managers are not chosen for their strength of character or the integrity of their personal opinions. They are asked to put aside such human elements and to rely upon "professionalism" and "expertise".

When the manager tells the politician that schools must be closed or factories shut down, the human aspect of those decisions—the price that must be paid by the children, the workers and the families—is just another variable in the equation—another intellectual problem that must be addressed in the managerial scheme and not the overriding consideration. And there is lost the fundamental purpose of all government—to take care of its people.

We, as Democratic leaders, have always seen things differently. To us, Government is not a business with a profit and loss bottom line. To us, fiscal responsibility means doing as economically as possible the things that people need to have done but cannot do themselves.

As far back as 1764, James Otis said: "The end of government being the good of mankind points out its great duties: It is above all things, to provide for the security, the quiet, the happy enjoyment of life, liberty and property * * *."

That hasn't changed and never will.

Yes, we need technical experts in a complex technological world—they play an important role. But clearly, the most important force for change must come—has to come—from the will, the drive, the spirit of our great political leaders.

And that brings us to this precise moment in time. Maybe, without even becoming aware of it, we have begun to understand this, we have begun to awaken.

In our State, particularly, we are in the midst of a renaissance. These have become good times—they will remain good times if we only know what to do with them.

So I am especially proud and honored to be able to address this convention—my birthplace—and my party—at a time when our commonwealth is stronger economically and in almost every other way than any State in the Nation. When, by virtue of the quality of its democratic leaders, it has an unparalleled opportunity to be a driving force as the national Democratic Party boldly challenges the future.

Our State and our party can be justifiably proud of their ability to produce leaders of national stature—throughout history and to this very moment.

And as we go forward from here, it is not individual issues that should consume our thoughts—they must be addressed—but they pass and new issues constantly appear. What endures is the general commitment to all of our people, to their happiness and to their dignity. The purity of this commitment is the very heart of the Democratic Party.

It is here and in strong political leadership that our hope for the future lies.

For only in a leadership vacuum would we be seeing judges and courts asked to make moral and political decisions—decisions they are not equipped to make. A process that makes people lose faith in their government. Because any social change that does not involve the people themselves in the political process is, at best, illusory and at worst, unjust.

Today, for the first time in many years, we in the Democratic Party are asking questions instead of just proposing answers. We are asking where we have been, where we are and where we want to go.

I hope we have learned that political leadership does not derive from a negotiated agenda, nor from impersonal managerial strategies, nor from articulating the perceived public will.

The political leaders we seek to carry on the tradition of the Democratic Party will not be just managers, they will not be just idealogues, they will not be just consensus takers, they will not be just power brokers.

They will be the men and women who will refuse to routinely sacrifice their judgment to public opinion, who will not be afraid to take political risks—including the risk of losing political power. Because it is not power that corrupts, it is the fear of losing power.

Above all, our political leaders of the future must be men and women who care about people, who believe that they each have a special kind of dignity. They must believe in the enduring values of the Democratic Party, values that will outlast time and temporal troubles, the values that have made it the magnificent instrument of social change that it is, the party of my childhood—and of my future.

Leaders who will understand and accept that ours is a party of turbulence and dissent—of excitement and passion—the powerful and driving force that has brought us here tonight, that is our life—and our future—that has given us the opportunity to be anything in the world that we want to be.

As you have taken me from defeat after defeat and given me the opportunity for 12 wonderful years to do what I most wanted in all this world.

In a short while, I will be leaving office—but tonight I want you to know how grateful I am to you and to the people of my state. With all of the hard times, I would not have missed it—or you, for the world.

There will, I am sure, be better attorneys general than I, but there will never be one who cares more about you than I do.

Thank you—for everything.

RECEPTION FOR AFGHAN RESISTANCE ALLIANCE LEADERSHIP

Mr. DOLE. Mr. President, yesterday Senator HUMPHREY and I had the honor of hosting a coffee reception in my office for the top leadership of the Afghan Resistance Alliance, the freedom fighters of Afghanistan, who are visiting Washington and earlier met with the President.

Our guests included Burhanuddin Rabbani, the spokesman for the alliance; Sebqatullah Mojadedi; Ahmad Gailani; and Mohammed Nabi Mohammedi.

MANY SENATORS EXPRESS SUPPORT

I am pleased that a large number of Senators were able to come by to meet these Afghan patriots and to express to them the strong support they have in the Senate and in the country for their efforts to restore the independence of Afghanistan. Among the Senators who did come by were: Senators ABDNOR, ARMSTRONG, BOSCHWITZ, CHAFEE, COCHRAN, COHEN, D'AMATO, DOMENICI, DURENBERGER, EAST, HAWKINS, HECHT, LAXALT, MATTINGLY, PRESSLER, QUAYLE, RUDMAN, SIMPSON, STAFFORD, and WALLOP. If I've missed anyone, and we had such a large number, I may have, my apologies.

But the message of that large turnout was clear—the Senate supports the struggle of the Afghan freedom fighters and is prepared to lend all appropriate assistance to help them defend themselves and their country from Soviet aggression.

TRAGEDY OF AFGHANISTAN CONTINUES

As we are all aware, the bloodshed continues unabated in Afghanistan today. Millions have been killed, wounded, exiled, and uprooted in the Soviet Union's attempt to subjugate an entire nation. The United Nations' latest report on human rights in Afghanistan documents in detail the systematic brutality which characterized the conflict in 1985. More and more, the word "genocide" seems to apply to this appalling tragedy.

Despite the overwhelming odds facing the Afghan people, they have withstood this Soviet onslaught with courage, dedication, and a dignity which is evident in each member of the delegation we hosted yesterday. The Afghans want only to be left alone to live their traditional lives. But they need our help in this effort. Only with the full support of the United States can Afghanistan again rejoin the community of free nations.

MOBILIZING SUPPORT

This support must be mobilized in every area and every forum. The President said this week that "the diversity of the alliance—its roots in the faith and traditions of Afghanistan—shows that the alliance is the true representative of the Afghan people." A resolution drafted by Senator HUMPHREY, which I cosponsored and which was passed 98–0 earlier this week, sends a similar message of support.

The resolution also indicates our approval and encouragement of a process which can only help the Afghan cause, that is, the growing unity between resistance leaders and their forces in the field. Once a disparate group of commanders and political notables whose only common goal was the ouster of Soviet forces from Afghanistan, the resistance is now much more unified in its approach to the war. This stems from a realization that fierce fighting is not the only tool available in the war against the Soviets.

On the contrary, world public opinion can be just as effective in pressuring the Kremlin to end its senseless devastation of Afghanistan. The resolution and the other expressions of support the Afghan leaders received this week are elements in that campaign of pressure.

As the Afghan leaders depart our country, I hope they will take with them some encouragement from the welcome they have received and from

the pledge of President Reagan to them as they departed the White House: "your goal is our goal: the freedom of Afghanistan. We will not let you down."

SENATOR HUMPHREY'S KEY ROLE

In conclusion, Mr. President, let me say one brief word about Senator HUMPHREY. He has been the heart and soul of the Senate effort to support these deserving freedom fighters. Without his leadership, we would not be providing the kind of effective support which the Congress has mandated in recent years. It was obvious that the resistance alliance leadership was aware of and deeply appreciative of Senator HUMPHREY's pivotal role on this issue, and I want to acknowledge it, too. He has my admiration, and the respect of all Americans, for his remarkable leadership on this matter.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

TAX REFORM ACT OF 1986

The PRESIDING OFFICER. The clerk will state the unfinished business.

The assistant legislative clerk read as follows:

A bill (H.R. 3838) to reform the Internal Revenue laws of the United States.

The Senate resumed consideration of the bill.

Mr. ROTH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

□ 1030

Mr. ROTH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2139

(Purpose: To retain the credit for alcohol used as a fuel and to advance the effective date of the taxation of certain foreign governments conducting commercial activity)

Mr. ROTH. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Delaware [Mr. ROTH] proposes an amendment numbered 2139.

Mr. ROTH. Mr. President, I ask unanimous consent that we dispense with reading of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 1725, beginning with line 4, strike out all through page 1727, line 8.

On page 1903, lines 5 and 6, strike "December 31, 1986" and insert "November 1, 1986".

Mr. ROTH. Mr. President, I will keep my remarks brief as I do not believe the amendment is controversial. The purpose of the amendment I am offering is to continue the current practice of encouraging the use of alcohols or ethanol that are made from farm grains as an additive in the production of fuels. Under current law, producers of fuel with at least 13 percent ethanol can either take a 6-cents-per-gallon exemption from the Federal excise tax on gasoline or an income tax credit of 60 cents per gallon of ethanol. Producers of fuels with less than 10 percent ethanol can only use the income tax credit.

The Senate bill inadvertently, I believe, repealed the tax credit while continuing the excise tax exemption. The Roth amendment would resolve the full alcohol provision to current law, which provides both the excise tax exemption and the tax credit, which would continue until December 31, 1992, at which time both would expire.

Mr. President, this amendment is negligible in cost. It would cost less than $5 million. However, to make the amendment revenue neutral, we propose to move up the effective date of a new provision in the Senate bill to tax the investment income of foreign governments and organizations. Under current law, income from investments is exempt from tax insofar as foreign governments and organizations are concerned. However, private foreign corporations are taxed on their investment income. The foreign government exemption exists even if the government controls a U.S. corporation and receives income from it.

Mr. President, the Senate bill essentially removes the exemption for interest and dividends where the foreign government controls the U.S. corporation. The effective date is January 1, 1987, and my amendment would move the effective date to November 1, 1986.

Mr. President, let me reemphasize that this is an agriculture program providing both essential and major new markets for surplus U.S. feedgrains. It cuts storage costs for surplus grains as it disposes of the growing and unprecedented buildup of surplus stocks that were depressing commodity prices.

The ethanol industry disposed of 250 million bushels of grain last year, and demand could soon exceed exports to Eastern and Western Europe as well as the Soviet Union. In addition, I think it is important to point out it has substantial value as a replacement for lead, benzene, and other gasoline additives that are environmentally threatening. Mr. President, everybody wins with this amendment: the consumer, the farmer, and the administration. I hope that the managers of the bill will accept this amendment.

I yield the floor.

Mr. SYMMS. Mr. President, this amendment retains current law for the blender fuel credit. At a time of severe crisis in the agricultural community, we should be helping to support ideas that find alternative use for agricultural products.

Currently, the credit allows a choice between 6 cents per gallon of a blended gasoline that contains 10 percent ethanol or 60 cents per gallon of ethanol. This choice is important. Under the Senate bill the 60-cent blender credit is eliminated. Elimination of the blender credit leaves no choice except to blend 10-percent ethanol with gasoline. There are other ways to blend ethanol at less than 10 percent but the credit would be denied under the Senate bill.

The Simplot Co., an Idaho agricultural products producer, has built two plants for the production of ethanol relying on the current law which provides the blender credit through 1992. Repeal 6 years early is unfair to companies that made investments in good faith based on current law.

The 1981 tax bill that created the credit produced the desired effect. Operations that were set up to take advantage of the credit supply the Nation with an alternative energy source and are helping alleviate the surplus of grain on the market. The Simplot Co. has established two plants to produce ethanol. The current average capacity is 6 million gallons of ethanol per year per plant.

The Simplot Co. has made substantial investments in research and is currently experimenting with waxy barley. The credit is responsible for this kind of product development—the development is necessary for our agricultural community to compete with foreign producers.

Our amendment addresses this problem and keeps faith with American producers. Again, I urge the adoption of the amendment.

Mr. PACKWOOD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. PACKWOOD. Mr. President, this was a matter that the Senator from Delaware very generously withheld offering in the committee when we were doing the markup. It is a matter of relatively slight expense and I think with merit, and he has paid for it. The amendment is acceptable.

The PRESIDING OFFICER. Is there any further debate? If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 2139) was agreed to.

Mr. ROTH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PACKWOOD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROTH. I thank the distinguished chairman of the committee for his cooperation.

Mr. PACKWOOD. The Senator is happy to do it.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

□ 1040

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2140

(Purpose: To allow a deduction for expenses necessary to enable a handicapped individual to work, and for other purposes)

Mr. DOLE. Mr. President, on behalf of myself, the distinguished Senator from Louisiana, Senator LONG, Senator DURENBERGER, Senator METZENBAUM, and Senator CHAFEE, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE], for himself, Mr. LONG, Mr. METZENBAUM, Mr. DURENBERGER, and Mr. CHAFEE, proposes an amendment numbered 2140.

Mr. DOLE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment reads as follows:

On page 1411, line 14, strike "and".

On page 1411, line 15, strike the period and insert ", and".

On page 1411, between lines 15 and 16, insert:

"(4) any deduction for any impairment-related work expenses.

On page 1412, line 12, strike the end quotation marks.

On page 1412, between lines 10 and 11, insert:

"(c) IMPAIRMENT-RELATED WORK EXPENSES.—For purposes of this section, the term 'impairment-related work expenses' means expenses—

"(1) of a handicapped individual (as defined in section 190(a)(3)) for attendant care services at the individual's place of employment and other expenses in connection with such place of employment which are necessary for such individual to be able to work, and

"(2) with respect to which a deduction is allowable under section 162 (determined without regard to this section)."

On page 2610, between lines 17 and 18, add the following new paragraph:

(4) Section 7702(e)(2) is amended—

(A) by striking out "and" at the end of subparagraph (A),

(B) by striking out the period at the end of subparagraph (B), and inserting in lieu thereof a comma and "and", and

(C) by adding at the end thereof the following new subparagraph:

"(C) for purposes of the cash value accumulation test, the death benefit increases may be taken into account if the contract—

"(i) has an initial death benefit of $5,000 or less,

"(ii) provides for a fixed predetermined annual increase not to exceed 10 percent of the initial death benefit or 8 percent of the death benefit at the end of the preceding year, and

"(iii) was purchased to cover payment of burial expenses or in connection with prearranged funeral expenses.

For purposes of subparagraph (C), the initial death benefit of a contract shall be determined by treating all contracts issued to the same contract owner as 1 contract."

On page 1923, after line 21, insert:

SEC. 1003. DENIAL OF DEDUCTION FOR INTEREST ON LOANS FROM CERTAIN LIFE INSURANCE CONTRACTS.

(a) IN GENERAL.—Section 264(a) (relating to disallowance of deduction for certain amounts paid in connection with insurance contracts) is amended by adding after paragraph (3) the following new paragraph:

"(4) Any interest paid or accrued on any indebtedness with respect to 1 or more life insurance policies owned by the taxpayer covering the life of any individual who is—

"(A) an officer or employee of, or

"(B) any person financially interested in, any trade or business carried on by the taxpayer to the extent that the aggregate amount of such indebtedness exceeds $50,000."

(b) CONFORMING AMENDMENT.—Section 264(a) is amended by adding at the end thereof the following new sentence: "Paragraph (4) shall apply with respect to contracts purchased after June 20, 1986."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to contracts purchased after June 20, 1986, in taxable years ending after such date.

Mr. DOLE. Mr. President, let me just summarize this amendment, because I think it is one that will not be objected to. It is revenue neutral. There is a $100 million revenue loss over 5 years associated with the first two parts of the amendment, and a $100 million gain from the last part.

My part of the amendment—and Senator LONG can explain his part—restores the employee business expense itemized deduction for additional business expenses incurred at the workplace by severely handicapped individuals.

Let me indicate that this matter came to my attention when I received a letter from a severely handicapped lawyer, a quadraplegic who cannot do anything at work without an attendant, and the deductions for those expenses were going to be disallowed.

So we have been working with the chairman, with Senator LONG, and with others. I do not know of any problem with the amendment. But let me just simply explain it.

It does restore a small part of the itemized deduction for employee business expenses. It will allow a severely handicapped employee to deduct the cost of attendant care services and other expenses which are necessary to enable the employee to work at his or her workplace.

I believe the Finance Committee's repeal of most employee business expense deductions can be justified. The itemized deduction requires substantial recordkeeping for what are often relatively small expenditures. Taxpayers frequently make errors of law in determining what types of expenditures are properly allowable as employee business deductions and these errors result in substantial problems for the IRS.

In most cases, if these small expenditures are really justifiable as business expenses, the employer will recognize that fact and pay for them. The employer, of course, would then take a business deduction.

However, we failed to take into account the major expenses for severely handicapped individuals who are willing and able to work if they can obtain special assistance. Often these expenses are so large, such as the cost of attendant care, for example, that, absent the deduction, a handicapped individual might be unable to afford to take a job that otherwise would be possible.

Of course, an employer might be willing to adjust the employee's compensation and pay for the additional costs himself and then deduct these costs, but many employees may be reluctant to do so since it might be simpler to hire someone else.

This matter, as I have indicated, was called to my attention—it had not occurred to me—when I received a letter from a very outstanding lawyer, Vivian Berzinski, who is a lawyer here in town. I will not read the whole letter, but just an excerpt can describe the situation better than I can.

DEAR SENATOR DOLE: The tax reform plan approved by the Senate Finance Committee would repeal the deduction for miscellaneous itemized deductions, including employee business expenses. This would have a devastating and, I am sure, unintended impact on many handicapped persons, including me, who are presently engaged in gainful careers.

In order to pursue their careers, handicapped persons must often incur extraordinary expenses for human services and/or special equipment. For example, blind people may employ readers to assist them. Deaf people may employ interpreters. People with various types of paralysis or other physical impairment may use computers or other expensive equipment to help them do their jobs. These expenses are integrally related to the taxable salaries earned by a handicapped individual.

Because I am not familiar with specific financial information on anyone else, I will use my situation as an example. I am a quadraplegic tax attorney who cannot function

without incurring extraordinary employment-related expenses—approximately $20,000 annually. Most of this consists of the salary of an assistant who stays with me throughout my work day taking notes, writing papers I dictate, and turning pages in books and documents, etc. (These employment expenses are wholly separate from the extraordinary personal expenses I incur in order to maintain my household which includes my three young children.)

In my opinion, legislation which would tax my salary without allowing deduction of the cost of an assistant would be unnecessarily unfair and harsh. Moreover, the bill would create a great tax difference between people similarly situated, because handicapped people who are self-employed could apparently deduct these types of expenses above the line.

Accordingly, I urge you to retain the itemized deduction for employment-related expenses for physically or mentally handicapped individuals. This is at least as equitable as the deductions for travel, transportation, and outside sales persons' expenses which would be permissible.

I recognize that this is a rather comprehensive tax package in which employee business expenses are but a small part. Nevertheless, I believe this is an important issue because of the potential discouragement of the efforts of handicapped persons to overcome their difficulties.

Mr. President, I think this is a small but very desirable change to the Finance Committee bill. If we are going to allow any itemized deductions, it seems to me that this should be very high on the list.

The amendment also includes a technical change in the Internal Revenue Code's definition of life insurance contracts to allow certain small burial policies to qualify as life insurance contracts for tax purposes. Congress decided to include a definition of life insurance contracts in the Internal Revenue Code to prevent taxpayers from using life insurance contracts as tax shelters rather than as protection against the economic costs associated with the death of the insured. I can assure my colleagues that this change, suggested by the distinguished Senator from Louisiana [Mr. LONG], is entirely consistent with that Congressional intent.

The staff of the Joint Committee on Taxation estimates that this amendment would reduce revenues by $100 million over 5 years. To assure that the provision will be revenue neutral, the amendment also more nearly conforms the treatment of interest paid on loans from life insurance policies purchased by individuals and by businesses.

Under the committee bill, no interest paid on loans on a life insurance contract purchased by an individual will be deductible after a 4-year phaseout period. That is because interest paid on these loans is treated as consumer interest and that itemized deduction is phased out.

However, if an employer purchases a life insurance policy for an employee and then borrows on the cash value, the interest paid on the loan will be deductible.

This amendment modifies the treatment of interest paid on loans related to life insurance contracts purchased by businesses covering the lives of their employees. It would limit the employer's interest deduction to interest on life insurance related to loans aggregating no more than $50,000 per employee.

Unlike the rule for life insurance policy loans taken out by individuals, the interest paid deduction for these loans will not be phased out, only capped at $50,000 of indebtedness. This will allow small businesses to use loans on life insurance policies for their employees as a source of short-term capital when necessary. But it will not allow these loans to be an unlimited tax shelter as under present law. Of course, businesses could borrow more than $50,000 per employee if necessary. This amendment only affects the amount of interest paid that could be deducted.

I might add that, when a loan is taken out on a life insurance policy, it reduces the death benefit by the amount of the borrowing. Therefore, if the entire cash value of a policy is borrowed, much of the death benefit promised to an employee is illusory. The employee is merely depending upon the credit of his employer to the extent of the indebtedness. I might point out that, unlike most commercial loans, there is no set repayment period for these loans. The loan may remain outstanding until the employee's death many years in the future. The employer never has any obligation to repay the loan.

If we really care about encouraging employers to provide death benefits to employees, we should enact this rule on its own merit.

Mr. President, I hope my colleagues will agree that this is a meritorious improvement on the committee bill.

SUMMARY OF AMENDMENT

The following is a summary of the amendment:

Restores employee business expense itemized deduction for additional business expenses incurred at the workplace by severely handicapped individuals.

Allows certain small burial policies to qualify as life insurance contracts for tax purposes.

Limits an employer's interest paid deduction for interest on amounts the employer borrows against life insurance policies the employer has purchased on the lives of his employees. The limit would be interest paid on no more than $50,000 of indebtedness per employee.

The amendment is revenue neutral. There is a $100 million revenue loss over 5 years associated with the first two parts of the amendment and a $100 million gain from last part.

It would seem to me that this is an area that I think is totally justified. The amendment has been cleared.

I thank Vivian Berzinski for calling this to my attention. I know through her efforts not only would she benefit but many other severely handicapped persons would benefit.

I yield to the Senator from Louisiana.

Mr. LONG. Mr. President, I appreciate the distinguished majority leader permitting me to piggyback on his amendment to find a way to offset the small revenue loss of the one I have to offer. His had enough excess financing in it to make it possible for mine to be considered as part of his.

Mr. President, this has to do with what we fear would have been an unintended error made in the 1984 act.

In the 1984 Tax Act, Congress went to great lengths to distinguish between life insurance policies and pure investment vehicles. It is possible however, that the 1984 act has the unintended effect of disqualifying small life insurance policies bought to pay burial and funeral expenses.

What we are speaking of here are policies that are generally sold to people age 55 to 60 who are preparing for retirement.

They want to insure that their surviving spouse or their children will not be saddled with the expense of providing them with a funeral and a final resting place.

This provision will basically give purchasers of the policies inflation protection. If you buy a $3,000 policy today, you know that whenever you die you will have the same kind of burial $3,000 would buy today.

To prevent use of these policies as investment vehicles, this amendment is limited to policies which may be used to pay for burial and funeral expenses, which have a face value of $5,000 or less, and where there is a limitation on the amount the policy can grow.

Revenue loss is less than $10 million. However, as packaged in the amendment with Senator DOLE, there is no overall revenue loss from the entire amendment.

The growth limitation on the policy is no more than 10 percent of the face value of the policy or no more than 8 percent of the accumulated value in the previous year.

Mr. President, the Treasury is aware of this amendment. So far, I am not aware of an objection. If Treasury should find some problem with it, we would hope to take care of that problem in conference.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Kansas.

The amendment (No. 2140) was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LONG. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOLE. Mr. President, I thank the distinguished chairman, Senator PACKWOOD, and staff, and Senator LONG and others, who worked on this amendment.

Mr. LONG. Mr. President, I also thank Senator DOLE and the chairman, Mr. PACKWOOD, for the consideration of this measure, and I also express my admiration for the way they are handling this legislation.

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. ANDREWS). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2141

(Purpose: To exempt income from reindeer held in trust from Federal taxation)

Mr. STEVENS. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS] proposes an amendment numbered 2141.

Mr. STEVENS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2454, on line 7, insert the following new section:

SEC. 1709. AMENDMENT TO THE REINDEER INDUSTRY ACT OF 1937.

(a) TAX EXEMPTION FOR REINDEER-RELATED INCOME.—Before the period at the end of the first sentence of section 8 of the Act of September 1, 1937, insert the following: ": *Provided*, That during the period of the trust, income derived directly from the sale of reindeer and reindeer products as provided in this Act shall be exempt from Federal income taxation".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if originally included in the provision of the Act of September 1, 1937, to which such amendment relates.

On page 1903, between lines 6 and 7 add the following:

"(d) Notwithstanding the above provisions the amendments made by this section shall apply to taxable years beginning after July 1, 1986."

Mr. STEVENS. Mr. President, the Reindeer Industry Act of 1937 codified in volume 25 of the United States Code, section 300, was enacted to resolve an economic conflict that existed in our State and certain range disputes that were involved in these conflicts between Alaskan Natives and nonnatives that had arisen due to nonnative involvement in the reindeer industry prior to 1937.

Congress intended to preserve at that time the "native character" of this industry and provided Alaskan Natives a means of self support by restricting reindeer ownership in Alaska to Natives.

The act also provided certain Government aid and authorized appropriations to purchase all reindeer and improvements at that time owned by nonnatives.

The objectives of the act were accomplished by granting the Secretary of Interior authority to transfer beneficial ownership of all reindeer herds to Natives in trust subject to numerous restrictions including regulating reindeer grazing, controlling roundups, handling, marking, and butchering of reindeer. The regulations are now codified by the Code of Federal Regulations found in section 4300.

Under the Reindeer Act, reindeer that remain in trust are legally owned by the Federal Government. It is because of the trust status and the intendant restrictions that the Reindeer Act was interpreted from its inception as exempting from federal taxation reindeer-related income. Both the Department of Interior and the Internal Revenue Service historically so interpreted the act.

Reindeer-related income from reindeer held in trust should be treated no differently from income from Indian-alloted lands acquired under the General Allotment Act of 1887, or those lands that are held pursuant to the Indian Recovery Act of 1934.

We felt that the Supreme Court had implied this tax exemption based upon its interpretation of the General Allotment Act. And there were specific restrictions contained in the Code of Federal Regulations that applied to reindeer herders.

Because of a recent and we believe erroneous interpretation of the policy by the Seattle office of the Internal Revenue Service this Native reindeer-related income held in trust is now considered subject to taxation. That was brought about by a decision of the Court of Appeals for the Ninth Circuit that was decided on December 12, 1984.

I quote from that opinion which is found in volume 749 of the second volume of Federal Reports, on page 567.

No clear expression of intent to exempt appears in the Reindeer Act.

In that case, those representing the Native reindeer herders, had argued that the act as a whole indicated that Congress intended this exemption. The Court found that it could not apply the exemption "absent expressed exemptive language."

The amendment I have offered now provides that exemptive language, and will carry out what we feel to be the original intent of the law. This is, in my judgment, a technical correction to this bill. It is couched as required by the Court's opinion in terms of an amendment to the original 1937 act. As long as these reindeer herds are in trust and literally owned by the Federal Government, we feel that the tax should be exempt.

Let me explain a little about these herds since some people ask questions about this. There are 13 reindeer herds on the Seward Peninsula in Alaska, and there are five in other areas. On Atka Island, Umnak Island, Nunivak Island, Hagemeister Island, and on St. Lawrence Island.

In 1985, the total number of reindeer butchered was 1,850, and the gross sales from all herding operations was $705,000. There is no real record of the expenses involved. The expenses involved the herders. There is usually one head person, a herder, involved in each one of these herds. It is usually an individual or small corporation or as in the case in question a father-son partnership who operate the herd.

I might add parenthetically, Mr. President, there are some herders now who are operating privately with animals that have been purchased. They are Native herders, but they are not handling Eskimo reindeer that are held in trust under the Reindeer Act. They are operating privately, and this amendment would not apply to them. It applies to those that are herding animals owned by the United States that are held in trust for the Alaska Natives. It is intended to apply to those herders who are managing "restricted property" as defined in Indian law.

As I said, there was $705,000 in the annual income in 1985 from 1,850 animals that were taken, and from the meat and products that were sold.

I am informed that two herders had sales of over $150,000. There were three from $65,000 to $100,000, and five from $20,000 to $35,000. The difficulty is that we have been working trying to figure out how to deal with this from the point of view of income; that is, revenue loss. This is the matter I mentioned before, and the indication from the committee was that this was an amendment that would lose $10 million, $5 million retroactively and $5 million prospectively over the period of this bill.

I seriously question that estimate. As I indicated, the gross sales were $705,000 a year for all reindeer herded by these people. We are talking about a very few people. But it is a very meaningful portion of the occupation of the people who live in the great northwest area of my State, primarily Eskimo people and some Aleut people on the islands. I think it is a meaningful amendment.

In order to make it revenue neutral for the purposes of this act, we pro-

pose to amend the same section that Senator ROTH amended previously and move that effective date back to July 1, 1986 which I am informed will provide revenue in excess of $10 million.

I think it is a de minimis kind of revenue loss if it was actually totally examined. It is brought upon us now, frankly, because this is the first tax bill to deal with income taxes that we have had since the 1984 decision. It requires an amendment according to the Court's opinion in order to carry out the original intent of Congress that so long as these reindeer remain in trust, herded, operated, and the herds controlled by the individuals who are acting in behalf of the United States under this concept, their incomes should be exempt from the total amount of revenue dedicated to the maintenance of the herd.

□ 1110

I would be pleased to answer any questions anyone might have concerning the amendment.

Mr. BRADLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. BRADLEY. Mr. President, I understand that the argument of the distinguished Senator is that the reindeer are held in trust and that the Federal Government forced the native people to incorporate. If they were not incorporated, there would be no case. So this is a case of why there should be a tax. Is that basically the case?

Mr. STEVENS. That is basically the case, yes. The basic reason for their being subject to taxation is that the original act of 1937 did not clearly express the intent of Congress that so long as the reindeer were held in trust, the income from the sale of reindeer that are taken annually is not exempt because of the failure to expressly exempt them. This is an express exemption required by the 1984 circuit court of appeals decision.

The act restricts the ownership of these reindeer either to the Federal Government or the Alaskan Native people. There are a few of these now which are held privately by people who are going into the business of animal husbandry. This will only apply to those which are in trust; the court's opinion, I believe, applied to those which are in trust.

Mr. BRADLEY. I am struck by the diversity of the country. Reindeer are not native to New Jersey, but I can see where this would be a real problem to the Senator from Alaska, relating to the citizens of his State, to the citizens of this country.

Mr. President, I have no objection other than to note that maybe this amendment could have been more favorably received and we could have debated it more fully if it were offered nearer to Christmas.

(Laughter.)

Mr. LONG. Mr. President, speaking for this side of the aisle, I am not aware of any objections on the minority side.

My information is that there is no objection by the chairman of the committee. I believe there will be no objection to adopting the amendment.

Mr. STEVENS. If there be no objection, I move adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2141) was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LONG. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LONG. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

□ 1130

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, what is the business before the Senate?

The PRESIDING OFFICER. The pending business is the tax reform bill.

Mr. BYRD. Is the Pastore rule still in effect at this hour?

The PRESIDING OFFICER. The Pastore rule will last until 1:15.

Mr. BYRD. I thank the Chair.

Mr. President, I ask unanimous consent to speak out of order notwithstanding the Pastore rule.

The PRESIDING OFFICER. Without objection, it is so ordered.

BIRTHDAY OF THE 35TH STATE IN THE UNION

Mr. BYRD. Mr. President, today—June 20—marks the 123d anniversary of West Virginia's admission to the Union as the 35th State.

On June 20, 1863, America was in the midst of a great Civil War—a torn, riven, and mourning country. As the nations of the world watched, brother killed brother, and neighbor fought neighbor. The issues that brought on the War Between the States were not simple. Differences of culture; differences of economy; differences of political, moral, and religious philosophy; and differences of constitutional interpretation had split the 11 States of the Confederacy from those of the Federal Union. Even within most States on both sides of the battle lines, sincere men and women differed as to how to end the war, how to settle the question of slavery, and how to draw the demarcation between Federal and State powers.

Perhaps no area was quite as divided over the issues of that long-ago era as were the counties of western Virginia. Many western Virginians were slaveholders. Many were staunch supporters of States' rights. The vast majority were proud to be called Virginians, with all that that name meant in history and tradition. And since the early days of the Republic, all had looked to Richmond as their State capital.

But when Virginia was drawn into seccession from the Union, a majority in the western counties of the Old Dominion found that their attachment to that Union was too compelling. West Virginians had shared too much history together under the Stars and Stripes to allow themselves to be mustered under the stars and bars.

Some historians have written that the only two issues finally settled without further question by the War Between the States were, first, the abolition of slavery, and second, the foundation of the State of West Virginia. Neither of those questions, one might note, was resolved without the tragic spilling of fraternal blood and the decisive intervention of President Abraham Lincoln.

In the case of West Virginia, many especially in the U.S. Senate were opposed to her admission to the Union as a separate State. But President Lincoln, recognizing the great sacrifices made by so many Union loyalists in West Virginia, and heartened that his faith in the Union was shared by such a majority in that battle-weary region, threw his influence behind statehood for West Virginia. That influence carried the day, and West Virginia took her place beside her sister States and added her own star to our National flag.

West Virginia has not disappointed President Lincoln's faith in her. Today, as in decades past, the people of my State enjoy a proud heritage of patriotic service in all of our Nation's wars, and can boast a rich culture, ethos, and tradition all their own.

So, I wish for the people of West Virginia the very happiest 123d birthday, and countless more birthdays in generations to come.

□ 1140

Mr. President, I will be happy to yield the floor if any Senator has an amendment.

Did I have any time remaining under the leader's order this morning?

The PRESIDING OFFICER. The Senator has 10 minutes reserved.

Mr. BYRD. I thank the Chair. If I may then continue on another subject.

PRESIDENT'S SPEECH ON ARMS CONTROL

Mr. BYRD. Mr. President, the President spoke yesterday in Glassboro, NJ, the site of the 1967 summit, about the possible "moment of opportunity" in arms control relationship with Soviets.

He indicated the latest Soviet arms control offer, while deficient in certain ways, might be the long-awaited turning point in arms control negotiations. He urged Soviet leader Gorbachev to join him in "taking action for peace."

If the President's remarks indicate his administration at long last may have ended its internal disagreements about arms control policy, then this is a most welcomed development. Those internal disagreements have not served the President and they have hampered America's ability to negotiate effectively with the Soviets.

The President could take a further step to eliminate unnecessary complications burdening arms talks if he alters the intentions certainly of some who have spoken in the administration for the United States to violate important SALT central numerical sublimits later this year.

There is strong evidence that the majority of the Senate would support continued United States compliance with SALT's central numerical sublimits on strategic launchers, because abandonment of those limits would give the Soviets the excuse likewise to break out of those central numerical sublimits.

Not only did 54 Senators urge the President to continue compliance, but yesterday the Senate Armed Services Committee apparently also voted to send such a recommendation to the White House. The House of Representatives made its feelings abundantly clear yesterday.

Instead of working to overturn or neutralize these actions, the administration should heed the sentiments of elected representatives of the American people, the majority of whom have spoken, and adopt the policy behind which Congress, the citizens, and allies can unite.

That would be the way to establish the strongest position for our negotiations in talks with the Soviets on new arms accords and on resolving United States concerns about Soviet compliance with existing agreements.

Mr. Gorbachev should also heed the President's words and quickly agree to a summit date to permit adequate planning. I hope the new Soviet offer is an indication that the Soviet approach to arms control finally is shifting from a primarily public relations campaign to serious negotiations.

I agree with the President that both sides not just our side, but also the other side, must aggressively seize this moment of opportunity to advance the cause of peace. I will be looking for evidence from both our actions and Soviet actions that this is, in fact, occurring.

Mr. President, I yield the floor.

THE TAX REFORM ACT

The Senate continued with consideration of the bill.

Mr. ABDNOR. Mr. President, I rise today to address a transitional rule in the Tax Code which is of grave consequence to the State of South Dakota. Mr. President, air service is vital to South Dakota. Air service is the link between a remote and sparsely-populated State like South Dakota and the rest of the world.

I am sure I do not have to point out to anyone in this body that South Dakota is not exactly a high volume route for air travel. We do not have the population to justify extensive air service. At the same time, South Dakotans should be afforded to some extent the basic services provided for all citizens. For years, the Federal Government has taken great pains to insure that all States have essential air service.

For South Dakota, essential air service means Mesaba Airlines. Mesaba Airlines is our essential air carrier. As a matter of fact, Mesaba is the only airline serving our State capital of Pierre, not to mention a host of other small cities in South Dakota. Without a transition rule to the investment tax credit in H.R. 3838, it is highly likely that Mesaba will go out of business and the South Dakota cities of Pierre, Huron, Brookings, and Mitchell will lose their essential air service.

Let me explain the specifics of this situation to my colleagues:

In January 1986, Mesaba Airlines made a commitment to lease $20,000,000 of new aircraft. These aircraft were financed through operating leases and all deliveries took place between March and the end of May 1986. This commitment was made to better serve the essential air service cities in the region. These seven, new aircraft offer the cities and passengers served better service, greater capacity, and more comfort.

As you can well understand, the economics of this early 1986 transaction will greatly change if the investment tax credit involved here is repealed retroactive to January 1, 1986. Mesaba's annual lease payments for this $20,000,000 transaction will increase annually by at least $324,000 if Mesaba's lessors are to lose the investment tax credit. This figure is approximately twice the average of Mesaba's previous 2 years net income of $165,000 in fiscal 1985 and $201,000 in fiscal 1986.

It has taken Mesaba 14 years of dedicated airline service to finally be in a position to lease new aircraft. This contract would not have been entered into were the ITC unavailable, and even then, this transaction came with great difficulty.

Mr. President, I believe the tax law changes in this bill were never intended to disrupt critical public services. Certainly, essential air service is critical to the public well-being. And Mesaba has indicated that they will strive to develop their markets so they can continue to be able to serve small and medium-sized communities after the Essential Air Service Progrem terminates in 1988.

Mr. President, the serious nature of this problem for my State is readily apparent. And I believe it is incumbent upon this body to take the steps necessary to preserve air service for the citizens of this country, regardless of their geographic location. I would hope the distinguished chairman of the Finance Committee and the Senate will be willing to assist me in preserving air service in South Dakota.

Not only is South Dakota affected but surrounding States have a stake in this issue as well. Mesaba serves more cities in Minnesota than any other carrier. It serves cities in Iowa, Wisconsin, and North Dakota. I would hope the chairman keeps this in mind when the conference committee addresses this issue.

Mr. President, earlier in the discussion of this bill, Senator DURENBERGER and I prepared an amendment to be offered relating to an airline company which covers a number of States in our territory. The amendment was cosponsored by the Senator in the Chair, Senator ANDREWS, and Senator BOSCHWITZ, and has a great deal of interest for those who are directly involved with this airline. It is a very, very serious situation back in all our States, and particularly in South Dakota. You have to understand that between the borders of South Dakota we have little or no airline service other than that provided by Mesaba Airlines.

They provide airline service to the capital of South Dakota, Pierre, and interestingly enough, if you want to go to Pierre by air, Mesaba is your only alternative. The legislators of South Dakota depend on it entirely to get back and forth on weekends and between sessions.

Unfortunately, a situation has arisen with regard to Mesaba Airlines which could do terrible damage to the company. As a matter of fact, damage enough to cause the airline to no longer exist.

If they are not granted a transition rule allowing investment tax credits on the new airplanes they recently leased, it could very well put them out of business.

I feel sorry for the airline, but I feel even more sorry for the people from my good State who rely on Mesaba. They do a fine job, and they are doing

a wonderful service for South Dakota and the other four States they serve.

I yield to my colleague from Minnesota.

Mr. DURENBERGER. Mr. President, I appreciate the efforts by our colleague from South Dakota, JIM ABDNOR, and by the occupant of the Chair, to bring this matter to the attention of our colleagues.

This is one of those small potential tragedies that comes with writing a very comprehensive kind of a tax bill.

I well recall the evening in the Finance Committee when we had to make the decision about how far we were going to broaden the base in order to bring the rates to 27, 15, and 33 percent. The last decision, as I recall, that we took that evening was to change the effective date on the investment tax credit from a March date which we had presumed I think it was March 1 which had sort of been in the chairman's draft right along and moved it back to January 1.

So, this little—it is not a little, in our State it is a large, potential transportation tragedy occurred that night as we made the decision to move the date from March 1 to January 1.

This third level carrier which is one of the best in the country I think, at least one of the most stable third-level carriers in the country, entered into a $20-million lease agreement on January 20, 1986, for seven Fairchild aircraft to be used to service small communities in Minnesota, South Dakota, Iowa, and North Dakota. The aircraft involved seats 20 passengers. All the aircraft have been received and are now being used to provide service to these areas.

The lease contract price was based on the then available investment tax credit and on ACRS. However, Mr. President, the lease agreement contains a tax indemnity clause which, as a result of the retroactivity of the elimination of the tax credit I spoke of will increase the lease cost by $324,000 per year.

These costs, the $324,000 per year, are double this company's total net income in fiscal year 1985 which was $165,000, and it is $123,000 more than the company's net income in 1986, which was $201,000.

□ 1150

So, Mr. President, by an unfortunate flick of the pen we change the effective date for repeal of investment tax credit and in the process we are in a position of driving a small profitable air carrier out of business and forcing even greater hardship on rural communities in our part of the country.

I know that the chairman of the Finance Committee has been chairman of the Commerce Committee. And in that capacity it is he who has helped to bring us to the marketplace in air transportation in this country. And if there is anyone in America who will be sensitive to the needs of airline transportation, and I think particularly to the inadvertent consequences that this tax bill might have on any third-level carrier who serve the small rural communities of this country, I expect it would be the chairman of the Senate Finance Committee.

So I would be very much interested in hearing his reaction to our particular quandary here for this carrier.

Mr. PACKWOOD, Mr. President, I am very, very aware of the problems of the smaller airlines. When we went through the deregulation, we knew the larger airlines—200, 300, 400 passenger planes—were not going to be serving towns of 20,000, 30,000, or 40,000. In fairness, it was not efficient to have 5 people boarding a plane that holds 200 people. We knew to serve those areas we were going to have to have a whole new type of airline—some call it commuter airlines, third tier airlines—a plane that holds 20 people, 30 people. They can serve those towns efficiently. They can make money carrying 10, 15, 20 people.

And if we do not have those airlines, there are going to be hundreds of towns in this country that have no service at all. Because the 747's and the 707's are not going back to the towns of 15,000, 20,000.

The issue is subject to conference and you can be sure I will do everything I can to help.

Mr. DURENBERGER. We have in the bill some transition rules for 727's and some other airplanes and for other airlines.

Mr. PACKWOOD. We have a variety of transition rules for airlines, in some cases, which placed an option to buy in 1984 but were not going to take delivery of the plane until 1986, 1988, 1990. But those are normally bigger planes. The planes you are talking about here are smaller planes. They are ordered on a shorter notice. For a plane that holds 30 people, you do not order it in 1982 and not take it until 1988. You can get those quickly. So theirs is a different situation.

But, fortunately, because we have the issue of transition of airlines and investment tax credits and depreciation in the bill, it is subject to conference.

(Mr. STEVENS assumed the chair.)

Mr. ANDREWS. Will my colleague yield?

Mr. DURENBERGER. I am glad to yield.

Mr. ANDREWS. I came down from the chair, Mr. President, in order to make one point that perhaps has been overlooked. In the case of the Mesaba Airlines, they are a local carrier that is moving ahead because of deregulation, the very deregulation that was supported by this body. I had some doubts about it. In fact, I voted against it, but it is the law of the land.

Two cities in North Dakota, Jamestown and Devils Lake, were formerly served by major national airlines. They are now served by Mesaba.

We are providing, out of the Transportation Subcommittee, Mr. President, funding to help subsidize these airlines get their beginning. The distinguished chairman of the Finance Committee was then the chairman of the Commerce Committee and helped structure all of these agreements.

Mesaba has a unique pattern of growth made necessary because of the deregulation. There they are caught in a unique problem. They are buying these new aircraft because public attention is being focused on the service they give. The acceptability is coming up and it would be tragic if we gave no recognition to these unique problems of this growing regional carrier that has been brought about because of our own legislation.

This is not the case of an airline that has been going on for years and years and years and has a backlog piled up. They do not have a backlog.

So I appreciate the assurances of the Senator, the chairman of the Finance Committee, that he will seek to find a way in the conference to take care of this unique problem faced by Mesaba.

Mr. PACKWOOD. The problem was unique, because when we passed airline deregulation in 1978, we put in what we called essential air service and we knew there were going to be some towns that would lose the major planes and there would have to be a Government subsidy. And that is what has continued for 10 years, going through the end of 1988, exactly to take care of the Mesabas and the other airlines that came up that were going to fill a void, a gap, that we knew was going to happen.

Mr. ANDREWS. If the Mesabas cannot take advantage of this tax, shall we say, the encouragement that they felt they had, then they are going to have to apply for even more from the Federal Government out of the other pots. So it is a much more important thing than most people realize. It is not a matter of giving some windfall to some airline. It is a very unique case.

I appreciate the recognition the Senator has of it and appreciate his support.

Mr. BOSCHWITZ addressed the Chair.

Mr. ABDNOR. Mr. President, just 1 second. I still have the floor, I believe.

The PRESIDING OFFICER. I believe the Senator from South Dakota does have the floor.

(Mr. ANDREWS assumed the chair.)

Mr. ABDNOR. I would like to add to the remarks of the Senator from North Dakota. I remember when essential airline service came into being. I was in the House at the time and a

member of the Subcommittee on Aviation, which was then a part of Environment and Public Works. As I recall, I was the only one on the committee opposing deregulation at that time. I remember very well then Secretary Coleman saying:

I want the good Congressman to know that we had South Dakota in mind when we did this very thing.

I was not quite that sold on it, but I was at least somewhat assured that South Dakota would be protected.

This company, I can say, because I was riding its airplanes from the outset, has come a long, long ways in growth. And I hope my colleagues will keep in mind what it means to the people of South Dakota, North Dakota, Iowa, Minnesota, and Wisconsin.

If a transitional rule is not permitted, it will put them out of business. The misfortune for Mesaba would be great, but not as great as it would be for the States that rely on it and need it. As a matter of fact, Mesaba's profits, although they have been growing, will not equal the loss they would be taking under this situation if it is not remedied.

Mesaba is working very closely with Northwest Orient bringing people to Northwest's hub so that they can make a decent connection to anywhere in the United States. The planes have been upgraded. They are comfortable now. They are pressurized. It would be a calamity and a disaster to see this company put out of business because of some oversight on their part or on ours. I thank the Chair.

Mr. BOSCHWITZ addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. BOSCHWITZ. I just would like to comment briefly on the colloquy. I say to my friend, the chairman of the Finance Committee, that the airline is the very essence of the reform that he was seeking when he was chairman of the Commerce Committee. It is an airline that serves a number of communities—Devil's Lake in North Dakota; Jamestown, ND; Brookings and Huron—I recently used the Mesaba when I went to Brookings—Huron, Mitchell, Pierre; towns in Minnesota, Vermillion, Grand Rapids, Brainard; towns that have no other air service and towns whose development will certainly be held back because they do not have air service.

This is an airline, interestingly, that has put it back together with Northwest. So that you can now go from Thief River Falls in Minnesota, which is up near the Canadian border, to Brookings, S.D., and get a through rate coming to Washington. Normally, it used to cost more to go from Brookings to Minnesota than it did from Minnesota to San Francisco.

□ 1200

Now they have worked out the gates. Their gates are a matter of fact coordinated with Northwest. So that they are on Northwest's ramp. It is just a well-done thing. It is just what you were seeking to do when the chairman brought reform to the airlines of the United States, which I think has worked perhaps even beyond our expectations.

This is a good airline that has been upgraded. That is very meaningful to our area. And it is important that we get this very small transition rule because the development of our entire area is dependent on the infrastructure. This is really one of the key elements of the infrastructure of these towns where no other form of air transportation is found.

Among these towns, I used to, Mr. President, have warehouse stores in Devils Lake, Aberdeen, Huron, Mitchell, Sioux Falls, Grand Rapids, Pierre, Brainard, all of those towns that I have personally had visits in, and have been to just scores, perhaps hundreds, of times. So I can tell the chairman that the importance of this airline in the development of the upper Middle West cannot be exaggerated. His consideration in conference would be much appreciated.

Mr. PACKWOOD. As usual, my friend from Minnesota makes a very telling argument. I say once more it was our intention when we passed airline deregulation almost a decade ago now to assure these commuter airlines, and although they have different names around the country, they are serving a vital need to every town of 5,000, or 25,000 in this country. I will do everything I can to alleviate this problem.

Mr. BOSCHWITZ. I thank the chairman.

I yield the floor.

Mr. ABDNOR. Mr. President, I too want to add my appreciation of the chairman of the committee for the understanding. I am sure he has probably a better understanding of the situation than any of us. Ours is a bit parochial. He knows what it means nationwide. It is self-assuring to know that it will at least be considered for a possible correction when it goes to conference.

With that, I say thanks to the committee, and release our time.

Mr. PRESSLER. Mr. President, I am pleased that the chairman of the Finance Committee has indicated his willingness to assist us in working out a transition rule for Mesaba Airlines in conference committee. I thank him in advance for his consideration. I was prepared to speak as a cosponsor of an amendment here to create such a rule, but agree with my colleagues that this issue would be best handled in conference.

As the essential air carrier serving seven South Dakota communities, this regional carrier provides a vital service to my home State of South Dakota. Mesaba stepped in after deregulation of the airline industry resulted in a loss of service to many of my State's communities. Since that time, Mesaba has grown and improved its service to these communities, including our State capital, Pierre. In fact, it is now the only way an individual can fly into the State capital.

In January 1986, Mesaba made a commitment to lease 20 million dollars' worth of new aircraft. These seven airplanes mark yet another improvement in air service to communities in my State, many of which might not otherwise have any air service. In my discussions with the President of Mesaba it has become clear that this contract was entered into only because the airline trusted in this body's commitment to develop tax reform legislation which did not implement provisions retroactively.

I would remind my colleagues that the Senate did indeed make such a promise to this country's taxpayers when it passed Senate Resolution 281 on December 19, 1985. That resolution expressed the sense of the Senate that the effective dates included in any tax legislation drafted by the Senate Finance Committee be January 1, 1987.

As all of us now know, the reality is that many provisions in this bill are applied retroactively. I oppose the retroactive imposition of changes as proposed by this legislation. I oppose these changes because they violate the trust the American people have placed in their Government. Mesaba Airlines is but one example of the violation of this trust. For the sake of fairness, this amendment should be adopted by the Senate.

The problem with which Mesaba is faced is the retroactive elimination of the investment tax credit. Had the airline known the Senate would violate its own resolution, it would not have committed to lease these aircraft. They could not have afforded the transaction. If the investment tax credit is not available, Mesaba's annual lease payments would essentially double.

This puts the cities, States, and passengers served by Mesaba, as well as its 300 employees, in jeopardy. It would mean that my State, which is only just now beginning to get back on its feet after the blow of deregulation, will once again face the possibility of cutbacks or elimination of air service. This transition rule affects more than one small airline. The outcome of the Senate's decision will have very real implications for air travel in South Dakota. If any of my colleagues have recently flown commercially in South

Dakota, they know I am not exaggerating this point.

Mr. President, this is a straightforward problem the correction of which will cost very little in the context of this legislation. However, if it is not corrected, the costs will be great. I urge our conferees to vigorously support the establishment of a transition rule for Mesaba in conference committee deliberations and I again thank the chairman for his consideration in this matter.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, while the distinguished chairman of the Finance Committee and the chairman of the Subcommittee of Finance on International Trade, Senator DANFORTH, are on the floor I would like to engage in a discussion with them regarding an amendment that I had intended to offer to this tax bill.

Mr. President, I was going to offer an amendment designed to help the potash industry in New Mexico. The amendment would have reactivated the 1969 dumping case under which the Canadians, French, and West Germans were found to be dumping. As a condition of settlement, the Canadians gave "assurances" that they would not sell in the future for less than fair market value. In return the order was revoked as it applied to them.

The amendment would have instructed the Commerce Department to begin a review of all "assurances" given in the previous potash cases. If, in the course of their review, they found that Canadian producers have been selling potash at less than the fair market value, it would instruct the Commerce Department to impose dumping duties.

The problem with the old assurance system is that once these assurances were given, there seldom was any followup. This was partially because Congress changed the dumping law but never addressed the issue of the old assurances. Therefore, there was no requirement to make sure these foreign companies were living up to their agreement.

My amendment would have clarified the status of the assurances given in the 1969 potash case by specifically reinvigorating them and required the Commerce Department to impose duties on dumped potash.

When I discussed the problem with my good friend from Oregon and my dear friend from Missouri, they were responsive to the problem and were very helpful in working out the solution.

It appears that because of our discussions with the Secretary of Commerce, the amendment will not be needed. Secretary Baldrige has agreed to a very decisive action plan which will actually accomplish more than the proposed amendment. He has written a letter to Chairman PACKWOOD stating that he will end appropriate technical advisors to Carlsbad to meet with the community leaders and industry officials and to help them prepare the necessary petition. Additonally the Secretary has decided that this case should treated as a priority and that a preliminary determination should be made within 100 days instead of the usual 160.

This approach will accomplish the objective of the amendment, but without getting into the issue of the assurances and without adding an extraneous matter to the tax reform bill.

Mr. PACKWOOD addressed the Chair.

The PRESIDING OFFICER (Mr. HEINZ). The Senator from Oregon.

Mr. PACKWOOD. Senator DOMENICI has talked to me on numerous occasions about the problems the potash industry is having. It was an issue that the Senator brought to my attention when the Finance Committee was considering whether to grant fast-track treatment for a United States-Canada Free Trade Agreement. I also understand that the Senator has been working with the trade agreement negotiators in an effort to get the issue addressed in the context of the bilateral talks.

I can sympathize with the Senator from New Mexico because he feels about potash the way I feel about timber. Since New Mexico produces most United States potash, and since Canadian market share has grown every year since 1964, I can easily understand the importance of this issue.

I would like to send to the desk, and have included at this point in the RECORD, a copy of the letter I received from Secretary Baldrige outlining his proposed action plan.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

SECRETARY OF COMMERCE,
Washington, DC, June 19, 1986.

Hon. BOB PACKWOOD,
Chairman, Committee on Finance, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I understand that an amendment may be offered to H.R. 3838, the Tax Reform Act of 1986, related to the treatment of imports of potash from Canada under the antidumping duty laws administered by the Department of Commerce. I have spoken with Senator Domenici about this matter and believe that an amendment is not necessary.

My staff has met on several occasions with Senator Domenici's staff to attempt to develop a solution to the underlying problem faced by the New Mexico potash industry. As I understand it, there are allegations that potash from Canada is being dumped in this country. I have directed my staff to work with the interested parties in New Mexico to see if the legal prerequisites for a dumping case are met and, if so, to provide them with information and technical assistance in developing a petition.

Because of the urgency of this problem, I have also asked my staff to direct additional resources to this case if it is filed and initiated, in order that we may reach a preliminary dumping determination no later than 100 days after filing.

Sincerely,

MALCOLM BALDRIGE,
Secretary of Commerce.

Mr. PACKWOOD. I want to thank the Secretary and the Senator from New Mexico for reaching an accommodation that precluded the offering of an amendment to the tax bill.

Mr. DOMENICI. I want to thank my good friend, the chairman of the committee. I clearly prefer this arrangement. I did not want to have a debate on trade on this very, very superb tax bill, but he has hit the nail on the head. He understands the dilemma we are in.

We now have a potash industry that we think is viable and our market share is going down. We now have evidence in the last 6 or 7 months that something very, very strange is going on. They are selling potash in the world market at much higher prices than they are selling in the United States markets without transportation added to it. Also, their U.S. market share is growing dramatically. Canada's share of very, very cheap potash is just growing astronomically. We have already developed that with the assistance of the Bureau of Mines and experts at the Department of Commerce. So all of that will give us a head start in the process that the Secretary has agreed to in the letter which he sent to the chairman that I discussed with him. That letter was just now made a part of the RECORD.

I thank the chairman very much.

Mr. DANFORTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. DANFORTH. Mr. President, let me say first that I cannot imagine anyone being more aggressive and single-minded in pursuing his constituents' concerns than has been the Senator from New Mexico in the case of potash. I cannot count the number of times that the Senator from New Mexico has discussed this problem with me. If he has been aggressive in discussing the matter with me, and I am sure with Senator PACKWOOD, he has been even more aggressive in bringing this to the attention of the Secretary of Commerce. I know that he has dealt with the Secretary of Commerce at great length about this, and it is through this very energetic approach by Senator DOMENICI that the Secretary of Commerce has written a letter to the chairman of the Finance Committee giving his assurance that he will proceed with this matter as expeditiously as possible once a potash dumping case is filed.

In my view, this is only fair. I mean, this is not something that is taking the Canadians off guard. The Canadians have been on notice at least since 1969 that we were going to be watching them in connection with dumping.

So I believe this expeditious handling that has been gained through the actions of Senator DOMENICI is a very appropriate and fair result.

It also is helpful of course to keep trade amendments off the tax bill. So it seems to me the Senator has exactly accomplished the objectives that he has, that his constituents have had, and he has done so in a way that has not gotten in the way of the forward progress of the tax bill.

Mr. DOMENICI. I thank my friend from Missouri.

Today, in some respects, might I say, Mr. President, is the culmination of several months of intensive interagency cooperation and work. I want to say publicly that we frequently are critical of our agencies of Government when it comes to matters such as trade violations.

□ 1210

In this case, the Bureau of Mines, a U.S. Government agency, has impressive commodity experts who know the markets for almost every mineral on Earth. Their potash experts were always available to answer questions about mineral deposits, transportation costs, and the market in general.

I have found that they have as much information as any group of citizens, would need in this particular area. Many citizens, companies, and communities spend hundreds of thousands of dollars with lawyers and consultants to get the information that is available to them and to us by an agency as expert as the Bureau of Mines.

We have found that they have saved innumerable amounts of money, hours, effort, by giving us this information which led us to the conclusion that we clearly had the beginnings of a dumping case.

The Commerce Department—and I want to thank them also—is frequently alleged to not care or to be too busy. In this case, they provided valuable help in both the legal department of the ITA and through the Office of Investigation, and Agreement Compliance.

As a result of these discussions, there is now a whole group of Government officials committed to investigating and stopping the dumping of potash and restoring fairness to the potash marketplace.

The commitments made today should be encouragement to the people of my State, in particular those in Carlsbad in the county of Eddy.

I would also like to thank Claud Gingrich who has been working with my staff on this problem. I cannot tell you the number of hours he has donated to this case. He has been of invaluable help. He is a professional and did not have to contribute his time, but he did so gladly. Again, I appreciate it.

I would like to reserve the right to offer an amendment on the next Finance Committee vehicle or bill, whether it is a technical corrections bill or a trade bill, in the event further action is necessary on this issue. I would like to share that thought with my chairman and get his reaction.

Mr. PACKWOOD. If it is necessary to revisit this issue, I would be happy to meet with you and talk with you. We are going to have other tax bills regarding trade and commerce.

Mr. DANFORTH. Let me say if it is necessary, Mr. President, I will be pleased to be of assistance to the distinguished Senator from New Mexico.

Mr. DOMENICI. I want to thank both the chairman, the distinguished Senator from Oregon, and Senator DANFORTH, the distinguished chairman of the subcommittee, and, obviously, the Secretary of Commerce. I believe he has done the right thing. I think we have the evidence and clearly we hope to get results.

Mr. BINGAMAN. Mr. President, I thank my colleague from New Mexico, Senator DOMENICI, for his leadership in seeking assistance for the struggling potash industry in New Mexico. I have worked with him over the past 3 years in this effort.

The industry is centered in Carlsbad, NM, an area that has, too often in the past 4 years, experienced the harsh economic realities of a community dependent on a depressed and declining industry. Since 1982, employment in potash has been slashed more than one-third. To those of us from New Mexico and familiar with the plight of the potash industry, it is clear the industry is suffering increasing injury from unfairly priced imports. There have not only been lost sales, but the effect of the unfairly priced imports has been to reduce prices and cause serious financial losses for the industry.

I understand that the Secretary of Commerce has expressed a willingness to assist us in seeking relief for the industry. He has agreed to give special attention to the unique problems facing the potash industry. Specifically, the Secretary will send a team of officials to Carlsbad, NM, to assist the local industry and community officials in preparing an antidumping petition. This petition will then be given expedited consideration and the Secretary has pledged additional resources in order to complete the review as quickly as possible. The Department has already developed the data that will be used to evaluate the antidumping petition.

Senator DOMENICI and myself have made it clear for sometime that we did not feel the procedures used by the Department in evaluating the potash case in the past were effective. I am pleased that the Secretary has heard our concerns and is prepared to take special action to assist the industry.

I am also appreciative of Senator DANFORTH's role in this effort as chairman of the International Trade Subcommittee of the Senate Finance Committee. I thank him for his assistance.

Mr. DOMENICI. I yield the floor.

□ 1220

THE SENATOR FROM VERMONT SERVES NOTICE

Mr. STAFFORD. One other thought, Mr. President. The Senator from Vermont, I suppose, is naive, even after going on 26 years in the Congress—nearly 12 years in the House and going on 15 years in the U.S. Senate. I was naive enough last night to believe that today there would be four rollcall votes in the Senate because it was stated by the leadership that there would be. In consequence, I was sufficiently naive to cancel an important matter—important to me—to be here today so that I would not miss all those rollcall votes.

I understand now they may not occur. I do have to say that it destroys the credibility, in my opinion, of the leadership if the leadership wants people here on Friday, to schedule rollcall votes, announce they will occur, and then not have them.

It appears further to the Senator from Vermont—and I can understand this because it has been a very tiring week for everybody—that there will not be a rush of Senators who have amendments listed in the agreement last night to the floor today, and there may not be a rush on Monday. There may be a big rush on Tuesday.

The Senator from Vermont seldom gets steamed up about anything the way he feels today but the Senator from Vermont very well may find himself objecting to a unanimous-consent request to extend the hour past 4 next Tuesday so that amendments that might have been offered today or Monday could be considered. I want the membership of the Senate to be on notice of that.

I yield the floor.

TAX REFORM BILL CREATES AN INJUSTICE FOR BRITISH FIRMS DOING BUSINESS IN THE UNITED STATES

Mr. DIXON. Mr. President, it has just come to my attention that there is a provision buried in this tax bill which effectively: first, discriminates against British-owned groups of United States companies; second, violates the United States-United Kingdom Income Tax Treaty; third, antagonizes the British Government; fourth, worsens the United States-foreign trade imbalance; and fifth, effectively raises no additional United States tax revenues. The provision I

am referring to is known as the dual resident provision, section 983 of the Finance Committee's tax reform bill.

For purposes of this provision, a dual resident company is a United States corporation which is managed and controlled in the United Kingdom. Because of its dual residency status, the company is taxable both by the United States and the United Kingdom.

The discrimination resulting from this provision is blatant. If enacted, this provision would deny a United States corporation, which happens to be a dual resident, the right to file a United States consolidated tax return with its United States subsidiaries merely because some of its expenses are deductible by its British parent company for British tax purposes. Ordinary United States corporations would be segregated and punished just because they have British companies as shareholders, while their competitors in the business community would remain unaffected since they have United States parent companies.

It was to prevent just this type of blatant discrimination that caused the Senate to adopt an antidiscrimination clause in the United States-United Kingdom Income Tax Treaty ratified in 1980. This nondiscrimination clause prevents the United States from imposing any additional tax requirements on United States companies operating in the United States and owned by United Kingdom persons that are more burdensome than the tax requirements imposed on similar United States companies owned by United States persons.

The uneven treatment of British-owned United States companies by this proposal violates our international tax treaty with one of our nearest and dearest allies. The United States Treasury Department has even told me that in their opinion the provision violated the United States-United Kingdom Tax Treaty.

In the face of the discriminatory treatment and violation of the United States-United Kingdom Income Tax Treaty, the only question would be to what extent would the British retaliate. There is no question that they would retaliate—what choice would they have?

It is widely believed that if this provision where enacted in the United States, Britain would enact a mirror provision directed at United States companies investing in the United Kingdom through dual residents. Then where would we be?

Additionally, with the current state of affairs with respect to the United States-foreign trade imbalance, there is some concern that this proposal would increase the pressure on British-owned United States companies to repatriate some of their profits to the United Kingdom, and thus, deepen the current trade deficit. Forced to make the choice of deducting expenses in the United Kingdom or in the United States, most dual resident companies—whether British or United States owned—would probably deduct such expenss in the United States. This would occur even in light of the bill's proposed corporate tax rate reduction to 33 percent. The reason is that the effective tax rate for these companies is higher in the United States than in the United Kingdom when United States Federal, State, and local taxes are taken into account together with certain available United Kingdom tax benefits.

Deducting the expenses in the United States would translate into higher British taxable income, higher British income taxes in the form of repatriation of profits. The greater the pressure, the lower the amount some U.S. companies will have to reinvest in the United States for capital improvements, market expansion, and human resources development.

Given all of the negative aspects of this proposal, it is disturbing to discover that for all practical purposes, this proposal might not result in any appreciable increase in United States tax revenues if the British retaliate, as I believe they would. If retaliation does occur, the outcome would be higher tax revenues for the British Government, and at best, breakeven for United States tax revenues.

For 50 years the United States has led the fight to eliminate discrimination in international taxation through the tax treaty mechanism. Because this dual resident provision blatantly discriminates against British-owned United States corporations, it undermines a generation of progress by the United States in convincing other countries not to discriminate against other corporations. I urge the committee, therefore, to reconsider this issue at the forthcoming House-Senate conference, and to delete the dual resident provision, section 983, from the conference bill.

Mr. GORE. I want to join with my distinguished colleague, the senior Senator from Illinois and voice my concern that the effect of this provision will be to treat unfairly several Tennessee companies which are dual resident corporations.

These companies have significant investments in my State and provide jobs to thousands of Tennesseans and they should not be subjected to unfair discrimination under this provision. I would hope that the conference committee would carefully examine the operation of this provision and work to eliminate unfair tax treatment of corporations whose investments provide so many jobs to our citizens.

DUAL RESIDENT PROVISION

Mr. MATTINGLY. Mr. President, I would like to comment very briefly on section 983, the so-called dual resident provision of the tax proposal now before the Senate. I have been contacted by a number of Georgia companies which are concerned about the potentially harmful effect section 983 would have on more than 1,600 Georgians employed by these firms.

The potential impact would, however, not be limited to workers in Georgia, but could similarly impact certain employees in almost every State in the Union.

The businesses affected by this provision are called dual resident companies. That term is used to describe firms that are located in the United States and employ our constituents but are managed or controlled through a corporate structure that is headquartered overseas—typically, Great Britain or Australia.

Currently, these companies are taxed on their worldwide income by the United States and by the overseas country. The law allows for certain reciprocal tax benefits. Section 983 in the committee proposal would make the tax treatment of these companies depend in some degree on how the parent company was treated under British law.

Mr. President, the House bill does not contain a similar provision and therefore, the matter will be before the conference committee. I can understand the committee's concern over this matter but I would like to note that the Treasury Department apparently has expressed some reservations about the impact of the proposed change on the existing United States-United Kingdom income tax treaty. In addition, I am advised that there exists the possibility of retaliation by the United Kingdom with all the uncertainty that such potential difficulties can create.

Therefore, Mr. President, I urge all my colleagues who will be members of that conference committee to carefully review the impact of this provision and give full and thorough consideration to its effect on our taxpaying constituents whose jobs could be affected by the decisions made in conference.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

AMENDMENT NO. 2143

(Purpose: To reward taxpayers who voluntarily pay taxes and to assist the elderly pay their medical bills)

Mr. BUMPERS. I send an amendment to the desk, Mr. President.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Arkansas [Mr. BUMPERS] for himself, Mr. METZENBAUM, and Mr. MATTINGLY, proposes an amendment numbered 2143.

Mr. BUMPERS. Mr. President, I ask that the further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 1659, beginning with line 21, strike out all through page 1661, line 2, and insert in lieu thereof the following:

SEc. 559. LIMITATION ON NET OPERATING LOSS CARRYBACKS.

(a) IN GENERAL.—Section 172 (relating to net operating loss deduction) is amended by redesignating subsection (1) as subsection (m) and by inserting after subsection (k) the following new subsection:

"(1) LIMITATION ON NET OPERATING LOSS CARRYBACKS.—for purposes of this section, with respect to any corporation, any net operating loss carryback shall reduce such corporation's income tax liability with respect to any carryback year only to the extent such carryback does not exceed an amount equal to the product of—

"(1) the amount of such carryback, and

"(2) the highest rate of tax prescribed under section 11 in the taxable year to which the net operating loss giving rise to such carryback arose.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to net operating losses for taxable years beginning after December 31, 1986.

At the appropriate place add: the following:

The Secretary of Treasury is authorized to issue regulations that reduce the floor for itemizing medical deductions to the extent that such regulations will not reduce revenues more than the revenue raised by this amendment as determined by the Joint Committee on Taxation.

Mr. BUMPERS. Mr. President, this amendment deals with a particular provision in the tax bill that we are debating here. It is my belief that, until a day or two ago, there were not 10 Senators who knew this provision was in the bill. I have talked with members of the Finance Committee who did not realize this provision was in the bill. It is what we normally call tax amnesty. That is, this amnesty grants immunity from prosecution to all people who have been evading taxes but who will come in and confess that they have been evading taxes. It does not relieve them of civil penalties; it only relieves them of Federal criminal prosecution.

I want to say first, Mr. President, that it has always been my belief that one of the compelling reasons people pay taxes is that they do not want to be prosecuted.

Second, they do not want the public ridicule and humiliation of being indicted and going through a publicized trial.

While compliance with the tax laws in this country has been steadily declining, if you will look, you will also find that compliance has declined on almost an exact curve with the amount of money we have continued to cut from the IRS budget so that what used to be a 3-percent tax audit rate is now a 1.3-percent audit rate. That is, only 1.3 percent of the tax returns are even looked at in detail by the IRS.

I want you to listen to the specific language in the bill. It seems to me that even if I favored the general concept of tax amnesty, I would have to strenuously object to this language. Here is the language:

In the case of any violation of any tax law for any taxable period, the taxpayer shall not be liable for any Federal criminal penalty relating to tax administration under section 6103(b)(4) of the Internal Revenue Code of 1954 with respect to such violation, if full disclosure of such violation is made to the Secretary of the Treasury or his designee before notice of an inquiry or investigation into the taxpayer's tax affairs is given to the taxpayer by the Internal Revenue Service.

In other words, Mr. President, if you have been cheating on your taxes for the past 10 years or if you have not even filed a tax form in the last 10 years, you can go down to the IRS and go through your mea culpa and say, "I am really sorry about this." The motiviation of your coming forward would not be relevant. Maybe you have a wife you have just divorced and you are scared she is going to go down and tell the IRS about your past misdeeds. Or you may be a gunrunner or a drug smuggler or any other thing. But for some reason or other, you decide to go down there and tell all. It does not make any difference what the motivation is under this provision. This says "any violation of any tax law for any taxable period" shall not be liable for any Federal criminal penalty.

In this tax bill, one of the things that we have made much of is that we have reduced the top tax marginal rate from 50 percent down to 27 percent, and this lowered rate is supposed to improve compliance. In 1981, I said on the floor of the Senate that I would be willing to lower the top rate from 70 percent to 50 percent because nobody was paying at that rate anyway. I think we collected, in 1980, $3 billion in the top marginal rate.

So one of the advantages of this bill is a top rate of 27 percent and lower rate of 15 percent, where 80 percent of the American people will be. With these low rates there just is not much incentive to cheat anymore on your taxes.

In addition there are allocated hundreds of millions of dollars in this bill to the IRS in increased funds so that they can enforce compliance. Maybe the $600 million increase in enforcement funds in this bill is not enough of an increase. I really do not know what the magic figure would be to bring the rate of compliance up. But the IRS is just now getting their computers on-line where they can cross-check with those 1099 forms against what you report in your tax return and I think there is a chance that tax compliance can be increased dramatically with this increase in money.

Think for a moment about the erosion of confidence in our Tax Code that tax amnesty would create. I do not know what the exact figure is, but my guess is that about 70 percent of the people, or maybe 60 percent of the people, pay their taxes every Friday afternoon when they get their paycheck, or every other Friday afternoon, or whatever the pay period is. They do not have any choice. The poor stiff out on the assembly line gets his taxes removed from his check before he gets his check.

You tell me how you can go home and talk to that man and explain to him that a drug smuggler, for example, or just one of the local big dogs who has been cheating, who maybe makes 100 times more money than he does, you tell him how he is supposed to think this Tax Code is fair when the other fellow can avoid criminal prosecution by simply walking in before he receives a notice or before any kind of investigation begins. Is that fair to the honest taxpayer?

Most people pay their taxes. Most people are not very happy about it. Justice Brandeis said one time, "Taxes are what we pay in order to live in a civilized society." Most people understand that, and most people pay their taxes—maybe grudingly, but they pay. The argument is made that Massachusetts and 15 or 16 other States have tried tax amnesty and it is highly successful for various reasons. Most States, however, do not engage in criminal prosecution for tax evasion. I cannot ever remember one in my State. The States, I know, is notified when there is a Federal criminal prosecution, and perhaps even when there is some kind of a Federal civil penalty. I am told that the IRS has an ad hoc policy now that if you honestly come in and confess your sins that you may have to pay a stiff penalty, anywhere from 25 to 100 percent, but unless the case is fairly outrageous they will take your money and put your name on the tax rolls. They don't prosecute.

The argument is made "Yes, but people won't go in because they are afraid they will not escape prosecution." I don't agree.

This provision says to people, "We are going to condone criminal activity." This provision is an entitlement program for criminals.

Mr. President, anybody can come in before a prosecution for any crime. He can rush down and pay any time. But there is no other place in the criminal laws of this country where we give them automatic amnesty.

So, Mr. President, I think that we are making a very serious mistake if we go forward with this amnesty program.

Now, the committee says that if you remove the tax amnesty provision, you will lose $200 million in revenue over

the next 5 years. And as you know, under the rules of the Senate we have to come with a revenue offset. So I plagiarized an idea of the Senator from Missouri [Mr. DANFORTH] on what we call the net operating loss carryback provision. I am a strong supporter of Senator DANFORTH's concept of rural enterprise zones and should this amendment pass, I will help him in the future any way I can to come up with the money for rural enterprise zones. I think he is caught in a little bit of a bind because he does not want to vote for amendments to this bill, and I understand that. Perhaps in my position on the Appropriations Committee I can be helpful to him on rural enterprise zones in the future. But let me tell you what this offset does. To strike this amnesty provision costs $200 million, and I would cover that and then some with the NOL carryback provision.

This carryback provision works this way. Under the law as it is now and in this bill, if you have a loss you can offset that loss against any taxes you paid in the 3 preceding years beginning with the furthest year. And so it would work thusly. Follow this illustration. If in 1988 you make $100,000 and you are a corporation, you will pay $33,000 in taxes at the 33-percent rate. Now, in 1985, if you had made $100,000, you would have paid $46,000 in income taxes, because 46 percent was the corporate rate then.

But if in 1988 after this bill is passed, when the top rate is 33 percent, you lose $100,000, you can carry that loss back for the preceding 3 years and that would take you back first to 1985. So let us assume that you made $100,000 in 1985 and you paid $46,000 in taxes. Under the existing bill, you can go back, even though the rate in the year in which you lost the money, 1988, was 33 percent, and save $46,000 in taxes. This is almost an incentive to lose money. All my amendment does is say that once this bill goes into effect, all losses in the future, when the 33 percent is in effect, are carried back to any of the years where we had a 46 percent rate they are worth as much as if the tax rate then was 33 percent not 46 percent. Companies wouldn't reap that windfall. So in the case I gave where you lost $100,000 in 1988, you go back to 1985 and instead of getting a $46,000 refund you get a $33,000 refund or $13,000 less.

Now, all told this offset picks up $1.6 billion; $200 million of that would be used to offset the striking of the tax amnesty provision. The balance of it would be used to reduce the threshold for itemizing your medical expense deductions. As you know, under existing law you can itemize all your medical expenses in excess of 5 percent of your adjusted gross income. This bill raises the threshold from 5 percent to 10 percent so that in the future you can only deduct your medical expenses in excess of 10 percent of your adjusted gross income.

Now, the amendment of the Senator from Ohio [Mr. METZENBAUM] the other day put some money back in the medical expense so the figure now is down to about 9 percent of adjusted gross. The House retains the 5 percent threshold. And if you put in another $1.4 billion you can lower the threshold to about 7.5 percent so that when you go to conference the difference between the House and Senate will be 5 percent and 7.5 percent.

Now, the American Association of Retired Persons is one of those organizations which agreed to oppose all amendments, but I can tell you they love my proposal. It is absolutely amazing. The statistics are staggering. Senator DURENBERGER used some figures the other day on this floor. How many elderly itemize their medical expenses? How many middle- and lower middle-income people itemize their medical expenses? This provision is important.

And so really you have a choice: Do you want to condone criminal activity or do you want to help people who have excessive medical bills? That should not be a tough choice for anybody.

Mr. MATTINGLY. Will the Senator yield for a question?

Mr. BUMPERS. I will be happy to yield.

Mr. MATTINGLY. As the Senator knows, I am a cosponsor of this amendment. Let me ask a couple of questions. By allowing those who cheat on their taxes to receive this immunity, what are we saying to the people across the United States, to the law-abiding citizens who pay their taxes on a regular basis?

Mr. BUMPERS. I said a moment ago in my earlier remarks that I think this amnesty provision does more to erode people's confidence in the tax system than any provision of this bill. I said I do not want to have to explain this provision to a manufacturing employee who sits on the assembly line all week and gets his taxes taken out of his paycheck.

Mr. MATTINGLY. Does the Senator believe then, if we are developing a tax reform bill that is supposed to be the epitome of fairness in equity and reform, that this provision is out of place?

Mr. BUMPERS. If this provision is left in the bill it certainly makes this a fair bill for people who have been evading their income tax. It is an entitlement program for criminals.

Mr. MATTINGLY. If this bill passes with this provision intact and there was a big publicity campaign all over the United States what will be the inclination then for voluntary compliance with the Tax Code? How successful would enforcement be then?

Mr. BUMPERS. The Senator anticipated me. I was getting ready to cover that. In my opinion, this is further going to erode the problem of tax compliance because you are saying to 80 to 85 percent of the people who are fully paying their taxes, and paying them fairly, "If you decide not to in the future, you can probably come in any time you want to and confess and we will handle it and you will not be criminally prosecuted." It is a disincentive for people who are now paying their taxes.

□ 1240

Mr. MATTINGLY. I say to my distinguished colleague from Arkansas, it appears that this tax amnesty provision is sort of legalizing an illegal act.

Mr. BUMPERS. That is what it does.

I also want to say that there are two Senators here for whom I have the highest respect, men I consider to be my close personal friends, who feel strongly the other way on this. We have discussed it at length, but I have remained unpersuaded, because I think tax amnesty is bad, bad policy.

Mr. MATTINGLY. I agree with my friend from Arkansas.

Mr. President, I rise on behalf of honest taxpayers all across America in support of the amendment offered by the Senator from Arkansas.

Ever since the issue of tax amnesty has been raised, I have vigorously opposed it. By establishing such a program. I believe the U.S. Senate will be sending out the wrong signal to American taxpayers. Mr. President, to sum it up, tax amnesty is dead wrong.

By allowing those who cheat on their taxes to receive immunity, what are we saying to the law-abiding citizens who pay their fair share of taxes, year-in and year-out? What will we be saying to the honest taxpayers who always bend over backward to comply with the laws and pay their taxes?

I join many others who believe by including this tax amnesty provision in the bill, the U.S. Senate will be condoning, and even supporting, a program that will have a long-term negative impact on the fundamental principle upon which our Nation's tax system is based—voluntary compliance. Is it fair to let one taxpayer successfully dodge punishment while others have faithfully paid their taxes? Is that what we in the Senate want to do? I hope not.

This tax reform bill we are considering is based upon fairness and equity. I believe it is a good bill, and achieves that worthy goal. That is why this provision is so out of place in the bill. It just is not fair.

Mr. President, the key problem with this provision is that it is morally

wrong. And I believe that's enough. But this is such a bad idea that it is full of other problems.

Every dollar that is collected through such a provision represents a dollar not discovered by the existing Federal enforcement structure. I am extremely concerned that any publicity about the amount recovered through this concept could reduce the inclination toward voluntary compliance by explicitly showing how unsuccessful enforcement has been.

There has been much talk in the past, as support for tax amnesty, that many States have been successful in their tax amnesty programs. They say "look what's been done, let's make the Federal Government do it." But I think once these State programs are more closely analyzed, a different and less-appealing result is reached. Many of the States that are cited as success stories, in actuality, had less-than-efficient tax enforcement systems prior to the Amnesty Program. The key question then arises—was the money the State raised proof of the success of the amnesty, or was it merely proof of ineffectiveness of its enforcement program?

And when one looks closer at the dozen or so States that have established a tax amnesty program, there are just as many States collecting very little money as there are those who collected a lot, if not more.

Mr. President, the fact is it legalizes an illegal act. The concept of tax amnesty is nothing but a wolf in sheep's clothing. It is bad news. I'm against tax amnesty, I think it is the first step toward destruction of this country's tax system, it would be one of the worst mistakes our Government could make.

Mr. President, this provision, which we are hoping to delete, is nothing less than a direct affront to the millions and millions of hard-working, honest, law-abiding citizens that pay their taxes, year-in and year-out. Those are the people this Senator is proud to represent. I sincerely hope my colleagues will join in this effort to remove this unfair provision.

I hope we can get to a vote on this and see how much support tax amnesty has. I think that if Senators see tax amnesty for what it is, it will be voted down overwhelmingly.

Mr. BUMPERS. There is one point I want to make, which I think we may be confronted with, and I hope we will not.

The chairman of the committee, Senator PACKWOOD, has said he might raise a point of order, based on the unanimous-consent agreement. I invite all my colleagues to turn to page 2 of today's calendar. They will see the unanimous-consent agreement, with a list of all the amendments.

The Senator has said that he is troubled by the fact that the description of the Bumpers amendment says, "Strike amnesty provisions in bill."

The point is made that this only refers to striking the amnesty provision. It does not say where I am going to make up the revenue, No. 1. No. 2, it does not say that the revenue that I am trying to raise here far exceeds the amount necessary to cover my amendment and that the surplus goes to the medical expense deductions.

I want to make this point: No. 1, when I was called last night I said, "Yes, my amendment is a tax amnesty amendment." A copy of the amendment—with the NOL and medical expense parts—was handed to the managers of the bill. When the unanimous-consent request was made by the majority leader and entered into, it was referred to—as often happens around here—just by a general topic. Had I had any idea, or had I been told, that I had to set out in great detail where I was going to get the money and the money would exceed the amount necessary to compensate for this provision, I would have complied.

As a matter of fact, I handed copies of my amendment to the managers and the staff last evening before the unanimous-consent agreement was entered into.

I hope the Senator will not raise that point of order and will allow the Senate to vote up and down on this; because, as I look down the list here, for example, I see an amendment by Mr. MATHIAS, and in parentheses it says "(PACKWOOD to describe.)" It does not even describe what the amendment is, let alone what the offset is.

Here is an amendment by Senator BAUCUS, "2d degree amendments relating to Bumpers amnesty amendments." I have no idea what MAX BAUCUS' amendment is. Are we going to raise a point of order on that?

Senator MOYNIHAN: "Relating to foreign area section 902/312." Relating how? Are we going to make a point of order on that?

Here is an amendment by Senator DECONCINI, and it just says, "Installment sales." That is hardly a classic description of an amendment.

I do not know which installment sales they are talking about. I do not know whether this is a revenue producer or loser, nor do I have the foggiest notion where they are going to find the money, or whether it generates more money.

I intend to stand on the floor and raise a point of order on an awful lot of amendments if that is the way this is going to be played.

I really feel put upon—I do not mind saying that—because I tried my very best to play fair. When they called me, I told them precisely what I wanted to do and how I was going to do it, and that is a lot more than 90 percent of these amendments show.

Mr. DECONCINI. Mr. President, will the Senator yield?

Mr. BUMPERS. I yield for a question to the Senator from Arizona.

Mr. DECONCINI. I am happy that the Senator from Arkansas is raising the amendment I have on that list, because it was my understanding that points of order would not be raised, and that when we came in with the unanimous-consent agreement, it was understood that it was a revenue neutral bill and that amendments could be modified, because we did not want to file every amendment in just the way it was going to be brought to the floor.

If the Senator will yield for a question, not on the point of order but on his amendment, as I understand this amendment, it would literally grant any person who is involved in drug trafficking—and that is over $100 billion a year in the United States on which no tax is paid—that anybody who is involved in drug trafficking and has not paid taxes, and they come to the IRS and say, "I'm delinquent and haven't paid my taxes, and not only delinquent, but I've just failed to pay for a number of years and I'm prepared to pay now," they are granted immunity. Is that a correct interpretation of this amendment?

Mr. BUMPERS. That is absolutely my understanding of it, and I am not sure the IRS can go behind that. They can ask the fellow, and he may say, "I made all these millions selling apples on the corner."

Mr. DECONCINI. There is nothing in this amendment that directs the IRS that they must find out where that money was made?

Mr. BUMPERS. Absolutely none.

Mr. DECONCINI. Mr. President, I ask unanimous consent that the Senator may yield to me for a couple of minutes, without losing his right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DECONCINI. Mr. President, it seems to me that the Senator's amendment speaks for itself.

What kind of tax bill do we have here? Quite frankly, I did not realize this provision was in it until 2 days ago, and I cannot believe that this Senate is about to grant amnesty to any criminal element in this country.

I prosecuted narcotics dealers and I prosecuted organized crime figures, and I know a little bit about what we are dealing with here.

The Senator has an amendment that is going to permit us to invite criminals not to pay their delinquent taxes and say, "Go out and do it again."

What kind of message is that for this country? What kind of law-abiding body is this that would have such an amendment in the bill? I have to

believe that even the drafters of this bill had no idea that this was going to be as widely interpreted as I believe it is and as the Senator from Arkansas has pointed out.

I hope the Senator will not raise a point of order, because it would be unfair.

Mr. PACKWOOD. Mr. President, who has the floor?

The PRESIDING OFFICER. The Senator from Arkansas has the floor.

Mr. DECONCINI. He yielded to me for a couple of minutes, by unanimous consent, without losing his right to the floor.

Mr. PACKWOOD. Was there a unanimous-consent request to that effect?

The PRESIDING OFFICER. The Senator from Arkansas obtained unanimous consent to yield temporarily to the Senator from Arizona. The Senator from Arkansas retains the floor.

Mr. PACKWOOD. I thank the Chair.

Mr. DECONCINI. Mr. President, No. 1, I think we owe a debt of gratitude to the Senator from Arkansas for raising this amendment.

No. 2, I hope that the ranking minority member of the Finance Committee and the chairman of the Finance Committee and the 20 members of the Finance Committee will stand up here today and say, "Hey, we made a mistake." There is nothing wrong in that. I have made plenty of mistakes in this body in the 10 years I have been here.

They should say, "We made a mistake by even suggesting that we are going to grant amnesty to all the criminal element in this country that wants to come forward and pay their taxes."

This is a disgrace, and it may be the Achilles' heel—and I hope it is not—of this tax bill.

The Senator is right, and I hope he pursues it. I hope this body will not raise a point of order, because it would be a disgrace.

□ 1250

Mr. BUMPERS. I thank the Senator very much.

As I looked down the unanimous-consent agreement, I found here what I think is really wonderful.

Stevens—amendment striking various provisions in the bill; Stevens—Endicott project; Stevens—Arco project; Domenici—potash; McConnell—parimutuel betting.

We have parimutuel betting in Arkansas. I would like to know what are the revenue implications of that.

Wilson—child support; Wilson—irrevocable trust elections; Roth—methanol blender.

I would like to raise a point—I think that has already passed—but I would like to raise a point of order on methanol blenders.

So, Mr. President, I hope my good friend from Oregon, the distinguished chairman of this committee and manager of this bill, would not put this body through what could be a wringer by voting on points of order instead of the merits of these amendments.

Mr. PACKWOOD. Mr. President, here is my problem. I talked to the Senator from Arkansas prior to presenting his amendment.

I have no quarrel with his presenting an amendment striking amnesty provisions—it would cost us $200 million if they succeed—and offering a $200 million offset to raise money. I will not raise a point of order on it.

His amendment has two parts: It costs $200 million to take care of his amnesty provision, and $1.4 billion to lower the medical deduction. He pays for the two of them with a $1.6 billion change in the net operating loss carryover rules.

I am not quarreling with him about the merits of his amendment. But if he is in a position to do this when the unanimous-consent order says "Bumpers strike amnesty provisions in the bill," then when we get down to the parimutual amendment that was mentioned by our good friend from Arkansas, the person who offers the parimutual amendment can add a nice big section to it and say, by the way, put back in the sales tax deduction the way it originally existed or put back in the IRA or put back in capital gains.

If the unanimous-consent agreement is going to mean anything, the amendment that you offer must bear some reasonable relation to the agreement. Otherwise, the agreement means nothing.

I suggested to the Senator from Arkansas before he offered it that he take out the provisions relating to the medical deductions and the net operating losses unless he wanted to use a $200 million net operating loss to offset his amnesty provision. He chose not to do that.

So, Mr. President, I wish to pose a parlimentary inquiry if I could.

Mr. BUMPERS. Before the Senator does that, will the Senator yield for a question?

Mr. PACKWOOD. I want to pose the inquiry first. A parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. PACKWOOD. Mr. President, the agreement allows Senators to offer amendments and specifies the subject matter of those amendments. Am I correct that this precludes Senators from adding any other significant matter to the amendment?

The PRESIDING OFFICER. The Senator is correct.

Mr. PACKWOOD. I am happy to yield for a question.

Mr. BUMPERS. The Senator from Ohio the other evening offered an amendment dealing with foreign real estate sales and he took the savings from his offset and put it exactly where I am putting it here.

Now what relationship is there in medical deductions on a tax return and the money saved from striking foreign investment to real estate sales? Why was a point of order not made here?

Mr. PACKWOOD. My argument is not to the point of where the money is raised. If the Senator from Arkansas wants to have a $200 million offset out of net operating losses to pay for his amnesty provision, that is all right with me. I may argue for or against the provision. All I am saying is this: that amendment is not basically an amnesty amendment. It is basically a net operating loss and medical deduction amendment.

If this can be allowed then none of us are on notice as to anything that may be in any amendment that may be offered under this agreement.

Mr. President, I do raise a point of order that this amendment goes completely beyond the scope of the unanimous-consent agreement because it involves a significant matter unrelated to the agreement.

The PRESIDING OFFICER. The point of order is well taken.

Mr. BUMPERS. I appeal the ruling of the Chair and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. BUMPERS. Mr. President, I suggest the absence of a quorum.

Mr. PACKWOOD. A parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. PACKWOOD. Is debate in order at this point, Mr. President?

The PRESIDING OFFICER. The appeal is debatable.

The Senator from Missouri is recognized.

Mr. DANFORTH. I thank the Chair.

Mr. President, I would simply like to make one ancillary point to the point of order.

A few days ago a number of Senators offered an amendment to this bill to provide up to 45 rural enterprise zones for America. The point of that amendment was to try to do something to stabilize rural America where there has been this terrible depression where small communities are being boarded up, where people are losing their jobs and they are losing their opportunities for any kind of supplemental income so that they can keep their farms.

We offered an amendment for rural enterprise zones intending at the outset to pull the amendment down but also realizing that any credibility

for any amendment that was presented even for the sake of debate and then to be pulled down had to have a revenue offset.

We found a revenue offset for rural enterprise zones and that was the net operating losses carryback which was then appropriated by the Senator from Arkansas to pay for a $200 million item, namely amnesty.

Now, I have to say that the Senator from Arkansas was kind enough to call me last night and to tell me what he intended to do.

Mr. President, I do not say that I or the other Senators who support rural enterprise zones have a proprietary interest necessarily in a particular revenue source for what we want to do. But it is also true that if we are successful at some future time, and I hope we will be in the very near future, in establishing rural enterprise zones, we are going to have to have some way to pay for them. If there is any amendment, any proposal, any legislative idea that has or should have a good claim on this particular source of revenue, it should be the rural enterprise zone and those who conceived of the idea of paying for this concept by the net operating loss carryback.

So for that reason, I would hope that the Senate would sustain the Chair to try to fix a $200 million problem and I do not dispute it. I am not a great fan of tax amnesty, but to try to fix a $200 million problem by poisoning the water to the tune of $1.6 billion for real changes that offer real hope to rural America I think is wrong.

Mr. PACKWOOD. Mr. President, let me say again I understand the argument that is being made by my good friend from Missouri. Those of us in the West who ever had any practice of water law are familiar with the concept of first appropriation. Whoever got it first gets to use it first.

And that is in essence what the Senator is saying about the money that is here, but that is not exactly my point of order.

My point of order is this: If this kind of an amendment can be offered where we all thought it was going to be a tax amnesty amendment and what it really turns out to be is a tiny bitty part tax amnesty and great big part medical deduction and net operating loss carry forward, then an amendment can be brought in so long as it tangentially talks on the subject of the unanimous-consent agreement and then this whole bill is reopened.

So, Mr. President, I move to lay on the table the appeal of the ruling of the Chair and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. BUMPERS. A parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BUMPERS. The Chair has sustained the point of order of the Senator from Oregon. Could the Chair state the precedent for that?

The PRESIDING OFFICER. The Chair was interpreting the wording of the unanimous-consent request and agreement——

Mr. BUMPERS. Could the Chair be more enlightening and tell us what the interpretation is?

The PRESIDING OFFICER. If the Senator will permit the Chair to continue—which states that the amendment to be offered by the Senator from Arkansas would strike the amnesty provision from the bill. The amendment goes far beyond that.

Mr. BUMPERS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

□ 1320

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PACKWOOD. Mr. President, I am going to pose a unanimous-consent request to withdraw the motion to table and also to withdraw the appeal of the ruling of the Chair by the Senator from Oregon. I pose that unanimous-consent request now.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. PACKWOOD. I ask unanimous consent to withdraw the point of order.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. PACKWOOD. Now, Mr. President, we are now back on the amendment of the Senator from Arkansas. I am simply at the moment going to ask unanimous consent that it be set aside without his losing any rights that he may have had under the amendment as it was pending or as offered, to set it aside not just temporarily and come immediately back to it, but to set it aside without his losing any right—there might be other intervening business—and give him the right to modify the amendment.

The PRESIDING OFFICER. Is there objection?

Mr. BUMPERS. Reserving the right to object, and I hope I will not have to, I would hope we can dispose of this amendment because we will have a substitute momentarily.

Mr. PACKWOOD. I am sure there will be at least one and perhaps two votes on the amendment, depending on how the first vote goes.

Mr. BUMPERS. A lot of people are here who have planning on leaving at 2:30 or 2:45 this afternoon. My point is I would like to be able to proceed so soon as it is crafted.

Mr. PACKWOOD. I ask unanimous consent that the Senator from Arkansas have the right to offer his amendment, regardless of what other business is pending, at the time his amendment is ready.

The PRESIDING OFFICER. Is there objection?

Mr. KERRY. Reserving the right to object, I understand the Senator from Arkansas wants to leave at what time?

Mr. BUMPERS. I need to leave here by 2:45, but I can always cancel, if I have to.

Mr. KERRY. I do not think anybody wants that.

Mr. BUMPERS. I have made my argument on the issue. The Senator from Montana has not had the chance to make his argument. I would suggest informally that the minute we lay it down the Senator from Montana offer his second-degree amendment and we debate and maybe vote on that and go immediately to a vote on mine, if he does not prevail.

Mr. PACKWOOD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

□ 1330

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PACKWOOD. Mr. President, while the Senator from Arkansas is redrafting his amendment and the Senator from Montana is working on a substitute to that amendment, as I recall, a unanimous-consent order would be in order now for others who have amendments to proceed to them. Is that correct?

The PRESIDING OFFICER. The unamimous-consent request has not yet been agreed to.

Mr. PACKWOOD. It has not been agreed to?

The PRESIDING OFFICER. That is correct.

Is there objection to the request? Hearing none, it is ordered.

Mr. RUDMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. RUDMAN. Mr. President, will the Senator from Oregon yield for a question?

Mr. PACKWOOD. I am happy to yield.

Mr. RUDMAN. Would the Senator from Oregon have any objection to my

proceeding for 1 minute as in morning business?

Mr. PACKWOOD. I would have no objection.

Mr. RUDMAN. Mr. President, I ask unanimous consent that I may be permitted to proceed as if in morning business for 1 minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

BARRY WAS HERE

Mr. RUDMAN. Mr. President, last Friday night in New Hampshire, our distinguished and beloved colleague, BARRY GOLDWATER, returned to New Hampshire and received a tumultuous welcome. In the wake of that appearance, the publisher of the Manchester Leader, Nackey Loeb, wrote an editorial in that paper entitled "Barry Was Here." I ask unanimous consent that a copy of that editorial be printed in the RECORD as if read.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

BARRY WAS HERE

A familiar figure came back to New Hampshire last week, and was greeted with a standing ovation. On Friday night, Barry Goldwater joined a dozen of his senate colleagues in a fundraiser for U.S. Sen. Warren Rudman.

The cheers that greeted Goldwater were for a man who had served his country over many years, but they were also for much more. Twenty-two years ago, Barry Goldwater told America what it needed to know, but didn't want to hear.

Barry Goldwater looked at the doubters and the who-cares generation and he stood strong. It was a lonely battle. The country wasn't ready then, but he represented the hope ahead. An unashamed flag-waver, always saying what he thought, being proud of the extremism for which he was condemned, he stirred within the young people of this country a spirit that has culminated today in a much stronger and prouder nation.

As this man, now crippled with pain, made his way slowly up to the podium in Manchester's armory last Friday night, we cheered him for what he represents. We may not always agree with him, but we must never forget that he may well have changed the course of our nation.

You are welcome here, Barry. We were glad to see you again.

Mr. RUDMAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BUMPERS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

TAX REFORM ACT OF 1986

The Senate continued with consideration of the bill.

AMENDMENT NO. 2143 AS MODIFIED

Mr. BUMPERS. Mr. President, I send a modification of my amendment to the desk.

The PRESIDING OFFICER. The Clerk will state the modification.

The legislative clerk read as follows:

The Senator from Arkansas [Mr. BUMPERS] for himself, Mr. METZENBAUM, and Mr. MATTINGLY, proposes an amendment number 2134 was modified.

Mr. BUMPERS. I ask unanimous consent that further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment, as modified, is as follows:

On page 1659, beginning with line 21, strike out all through page 1661, line 2, and insert in lieu thereof the following:

SEC. 559. LIMITATION ON NET OPERATING LOSS CARRYBACKS.

(a) IN GENERAL.—Section 172 (relating to net operating loss deduction) is amended by redesignating subsection (l) as subsection (m) and by inserting after subsection (k) the following new subsection:

"(l) LIMITATION ON NET OPERATING LOSS CARRYBACKS.—For purposes of this section, with respect to any corporation, any net operating loss carryback shall reduce such corporation's income tax liability with respect to any carryback year only to the extent such carryback does not exceed an amount equal to the product of—

"(1) the amount of such carryback, and

"(2) the highest rate of tax prescribed under section 11 in the taxable year to which the net operating loss giving rise to such carryback arose, *Provided, however,* That the number used as such highest rate of tax shall be adjusted, under regulations, so that the revenues generated by this section shall not exceed $200 million during the period of fiscal years 1987–1991.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to net operating losses for taxable years beginning after December 31, 1986.

Mr. BUMPERS. Mr. President, I suggest the absence of a quorum.

Mr. BYRD. Mr. President, will the Senator withhold that?

Mr. BUMPERS. I withhold that.

Mr. BYRD. Mr. President, I ask unanimous consent that the amendment offered by the distinguished Senator from Arkansas be temporarily laid aside so my amendment will not be considered as an amendment to his amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2144

(Purpose: To exempt the 1950 UMWA pension plan from the survivor annuity requirements of the Retirement Equity Act of 1984)

Mr. BYRD. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD] proposes amendment No. 2144.

Mr. BYRD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following:

SEC. . SPECIAL RULE FOR SECTION 404(c) PLAN.

(a) Section 205 of the ERISA of 1974 is amended by adding thereto a new subsection "(k)" to read as follows:

"(k) The provisions of this section do not apply to a plan that the Secretary of the Treasury has determined is a plan described in Section 404(c) of the Internal Revenue Code of 1954, or a continuation thereof, in which participation is substantially limited to individuals who, before January 1, 1976, ceased employment covered by the Plan."

(b) Section 401(a)(11) of the Internal Revenue Code of 1954 is amended by adding thereto a new subparagraph "(E)" to read as follows:

"(E) The provisions of this paragraph do not apply to a plan that the Secretary of the Treasury has determined is a plan described in Section 404(c), or a continuation thereof, in which participation is substantially limited to individuals who, before January 1, 1976, ceased employment covered by the Plan."

(c) Section 303 of the Retirement Equity Act of 1984 is amended by adding thereto a new subsection "(f)" to read as follows:

"(f) The requirements of this section do not apply to a plan that the Secretary of the Treasury has determined is a plan described in Section 404(c), or a continuation thereof, in which participation is substantially limited to individuals who, before January 1, 1976, ceased employment covered by the Plan."

Mr. BYRD. Mr. President, the United Mine Workers of America 1950 pension plan only covers participants whose last day of credited service for accrual purposes was before January 1, 1976. Thus, the plan was not required to provide a joint and survivor annuity under the Employee Retirement and Income Security Act [ERISA]. Nevertheless, the plan has provided pensions to miners' widows without any reduction to the participant's pension. The Retirement Equity Act of 1984 requires the UMWA 1950 pension plan to provide different benefits to a small group of unidentifiable plan participants. The plan is a flat benefit plan and all participants who qualify for a full pension receive the same benefits. It is not possible to preserve these important features and provide the benefits specified in the Retirement Equity Act to newly retiring participants. Accordingly, the plan should be exempted from the survivor annuity requirements of the Retirement Equity Act, so that UMWA retirees and widows can continue to receive full pensions.

□ 1340

This amendment has been discussed with the able managers of the bill, and

I hope that they are prepared to accept it.

Mr. PACKWOOD. Mr. President, the amendment has been cleared on both sides and we would recommend its approval.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from West Virginia.

The amendment (No. 2144) was agreed to.

Mr. BYRD. Mr. President, I thank both managers. I move to reconsider the vote by which the amendment was agreed to.

Mr. PACKWOOD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD. Mr. President, I ask unanimous consent that I may be allowed to add the name of my distinguished colleague, Mr. ROCKEFELLER, as a cosponsor of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2143, AS MODIFIED

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. I am not going to ask unanimous consent but simply make a suggestion to those who are opposed to my amendment by the second-degree amendment, I am finished with my debate on it and I would suggest that those who are opposed to the amendment and who favor the second-degree amendment which is about to be offered but not yet crafted might in the interest of time start debating this whole issue so we can save a little time and perhaps get some Senators out of here.

Mr. PACKWOOD. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. KERRY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KERRY. Mr. President, I thought I would use this time, while the Senator from Montana and the Senator from Arkansas are busy crafting two amendments to at least begin the process of debate on Senator BAUCUS' and my amendment and speak in opposition to the amendment of the Senator from Arkansas.

Now, I have listened very carefully to the Senator from Arkansas, the Senator from New Mexico, and the Senator from Georgia who say that if we have any voluntary disclosure program in this tax bill, we will be sending Americans a message, that it is OK to not pay your taxes, that you can get away with it because at some future point in time you can come forward without the risk of criminal prosecution.

The Senator from Arkansas and I agree on most things and work together on many things. I respect him enormously, and I know that his belief that working people and honest taxpayers will resent this program is absolutely heartfelt and legitimate. He suggested that the worker in a factory whose paycheck is subject to tax withholdings is somehow going to be disadvantaged and feel a sense of unfairness because that person does not have the easy availability of cheating as does another person within our society who might be self-employed or who otherwise has other kinds of opportunities available to him; we will merely be reinforcing that unfairness because that person has paid his taxes while in fact these other people have been able to escape it, then turn around, and come to the Government and have their criminal penalty forgiven. I heard the Senator from New Mexico say it would be a disgrace to send that message.

□ 1350

Mr. President, the message sent to Americans today under the current system is a disgrace. The message we would be sending by approving Senator BUMPER'S amendment would be to endorse the arrest system which is a disgrace, because we do not have a system that is fair today.

Before I talk about that system a minute or two, let me impress upon my colleagues the fact that the Baucus-Kerry proposal is not an amnesty program. I want to say it again: It is not an amnesty program. An amnesty program is a program where you totally forgive all wrongs and eliminate all tax liability completely. This is not what this amendment does.

The amendment will maintain a civil penalty that is stronger than the civil penalty we have today, and it will require payment of interest. It does not eliminate those things. The only thing it does is say that we are not going to impose criminal penalties on taxpayers who voluntarily come into the IRS and say, "I am behind.

People can be tax delinquent for different reasons. People can be behind because of foreclosures, because of problems in their businesses, because of personal setbacks, because of problems of sickness in the family. There are dozens of reasons why we might not want to criminally prosecute somebody who has fallen behind in their tax payments, and there are reasons why we would agree not to penalize them criminally. But they will not walk away scot-free; interest and civil penalties would still apply.

To say that honest taxpayers are going to be betrayed by this process is to ignore what the process does. I think that most people would be far happier knowing that someone who has not paid taxes in years is not only given an incentive to come forward and do so, but also, when he does so, he is paying in spades. They are paying not only the money they have not paid but also are paying a civil penalty on top of that, and they are paying interest.

In the face of a system today where we have so few criminal prosecutions, anyway, and where we have an enormous gap between our ability to collect taxes and the taxes that are owed, how can you turn around to the honest taxpayer and say: "Hey, we're going to let the system stay in place where the guy who is not paying his taxes is going to continue not to pay his taxes, and we're not going to be bothered by the fact that we don't have the resources to find that person"?

Mr. President, this is not an amnesty program. It is a limited voluntary disclosure program. In point of fact, all this program does is codify existing practice. It is precisely what the IRS does today. It is now new.

There is not one instance I know of where the IRS has criminally prosecuted a person who has come forward voluntarily.

All we are doing in this bill is giving visibility the ability to an existing program. We are giving the IRS the ability to go out to the country and advertise the fact that diligent taxpayers can come in to the IRS and make good on past tax bills. Last year, the IRS forgave 4.2 million people and raised $2 billion under their current policy of discretion. Our system has always wanted this way.

Why is this of concern? Why should we take this step in 1986, as we pass a dramatic, new tax bill? I should like to share with my colleagues some figures which are startling and important.

In 1976, the gap in taxes in the United States was about $44 billion—$44 billion that we could not get at, we could not collect. In the last 8 to 10 years, that has risen dramatically to the point where in 1984 it was about $100 billion. This year, IRS figures show that the cost of noncompliance is going to be $106 billion. That means, Mr. President, that more than one-half of the current budget deficit is lost annually because we do such a poor job of collecting taxes from those who try to cheat.

Mr. President, this country has a budget crisis because, each year, even more people chose not to pay what they owe. The IRS is losing ability to enforce the law. In 1964, about 95 percent of taxes owed were actually paid. Over the years, that has declined. Today only 81 percent of Americans are voluntarily paying their taxes. What does that mean? For every loss of 1 percent in voluntary compliance,

we lose $5 billion in revenues to the Federal Government.

Part of the reason for this is that the IRS has been denied the resources it needs to audit, so the audit rate has declined to just 1.6 percent. That reflects a 46-percent decline in corporate audits and a 26-percent decline in individual audits in the past 10 years.

The result of this decline in audits is very simple. It has given rise to a perception among the American people that the tax system is lax and unfair.

The tax system is unfair because people know the other people get away with cheating. It has risen to an epidemic proportion, and the only answer now is to take extraordinary steps to bring people back into the tax payment process.

I respectfully invite the attention of my colleagues to a Daniel Yankovich survey which was conducted for the IRS. That survey showed that one in four Americans believe that less than half of all citizens comply with our tax laws and that a majority of Americans believe that tax cheating is becoming more prevalent. Most disturbing is the finding that 41 percent of the people indicated that they are certain that tax cheaters would not be caught.

In fact, Mr. President, I have to say that I was surprised as I listened to my colleagues say what a terrible message we will send if we assure people who came forward that they will not be prosecuted criminally.

Today, only one out of every 43,000 taxpayers is subject to criminal prosecution. What kind of message is that? What does that fact say about fairness, when the current system tells people that if they decide to cheat on their taxes they stand so little chance of being caught?

I respect the gut feeling of my colleagues that somehow this notion of a voluntary disclosure program is going to hurt the country. I respect that gut feeling. But we have something more to go on than a gut feeling here.

In the last couple of years 18 States have implemented an amnesty program of one kind or another. The experience of those States is what we ought to be talking about as we decide whether or not the Federal Government is going to join them. Amnesty at the State level is a time-tested program, and there are proven results.

Let me point to the State about which I know most—Massachusetts. In 1983, we implemented a one-time amnesty for a period of 3 months.

□ 1400

More than 30,000 amnesty applications were received from delinquent taxpayers from virtually every State in the United States of America and from 12 foreign countries and from people in all walks of life.

In Boston alone over 10,000 people lined up to come in and pay their back taxes. That program was followed immediately with a strong enforcement program which increased penalties, provided new computers to allow us to track taxpayers, and raised the general level of enforcement of our State tax laws.

The result of that experience, Mr. President, was a dramatic increase in our ability to be able to collect taxes.

I keep hearing people say, "To oppose this program because it will hurt our ability to collect taxes," but the experience in the States has been exactly the opposite.

We have seen increased tax collections and an increased respect for the tax system. People see the one-time amnesty, but they also see that a system that was unfair has been made fair. That is what this tax bill is all about, an effort to try to reinstill fairness into the tax structure in this country.

Over a 2-year period in Massachusetts, audit assessments were increased 92 percent. Seizure activity was up 317 percent, and referrals and criminal prosecution, the very thing that we are told an amnesty will defeat, went up 59 percent.

Mr. President, the figures are absolutely at odds with gut feelings. In addition, the overall amnesty and enforcement program in Massachusetts gave us $564 million in new revenues and it has led to a 15-percent increase in revenues after inflation and after economic growth had been taken out.

Opinion polls conducted in Massachusetts to determine if amnesty somehow sends the wrong message totally contradict that notion. Every opinion poll after the amnesty was put in place says that people in the State overwhelmingly supported the program. They understood that we had put back into the system a sense of fairness and a willingness of people to pay. There is an understanding by people that the system is serious about collecting and making people pay.

What we are voting on today does not come close to the Massachusetts program in terms of full amnesty. Again, all it does is codify current practice by which the IRS has the discretion not to prosecute, and it changes that into a mandatory statement they will not prosecute. It does this to entice people into the process and put them on the tax rolls.

Let me share with my colleagues very quickly, before I wind up, a few letters to the Commissioner of Taxation of Massachusetts.

DEAR COMMISSIONER: I read about you today in the Boston Globe and I thought that you might be interested that I have payed all my taxes due for the first time in three years. This has happened as a result of your public relations programs as well as your attitude that the tax enforcement should not project an image similar to the Gestapo which is what the IRS has become. The article also mentioned the Amnesty that you had which I did not avail myself of because, as could be expected, the IRS would use the amnesty list to put people in jail. I have read in the Globe that you are asking President Reagan to have a Federal Amnesty which if you run a concurrent state amnesty I will pay all my unreported back taxes.

Another letter:

DEAR MR. JACKSON: I was recently informed by a friend that you and Governor Dukakis are attempting to get the Federal Government to adopt the tax amnesty project that Massachusetts recently put into operation. Many people, myself included, who wanted to use the amnesty offer did not because their was the strong likelihood of problems with the IRS since they would not grant amnesty like Massachusetts.

If you are successful I will amend my state and federal tax forms for the last three years. And I think that with a combined Federal/State amnesty that many more people will do the same than was true with only the state amnesty.

Another letter:

I am one of those people who owes the Department of Revenue for under reported income but did not make use of the Amnesty Program last year. The reason I did not use it was because I and thousands of others in Massachusetts knew that our names would have to be given to the IRS because of the information swapping agreements between Massachusetts and the Federal Government.

I would very much like to pay what I owe to the Department of Revenue and will if you are successful in getting the IRS to adopt the program that you implemented in Massachusetts and which I understand has been copied in other states. As a self-employed person I know of very few people who own businesses or work for themselves and report all of their income, however, I feel that you and Governor Dukakis are the first to confront this problem headon and I feel that you have only scratched the surface. If the IRS adopts an Amnesty Program I think its safe to say that five times as many people would participate in a Massachusetts Tax Amnesty program if they knew that they could also pay off their back federal taxes without fear of punishment for past indiscretions.

Another letter:

DEAR MR. JACKSON: My lawyer told me that you are trying to get the President to call a tax amnesty just like the one you had in Massachusetts. I hope you can get this done because a lot of people who wanted to be part of the amnesty did not because the Federal tax people would not allow the Massachusetts amnesty to work with Federal taxes.

I would like to pay my taxes for the last few years but I am frightened as to what the Internal Revenue people would do to me. I hope you get them to agree to the amnesty and I think you should go on the radio and in the newspaper to tell people to write to their Senators and Representatives to help you.

Mr. President, again I come back to the most important point here. We keep hearing this somehow sends a message that will defeat current tax collection efforts. Current tax collection efforts are at a miserable level. If they continue to go downward at the

rate they have now, Americans are going to understand that it does not matter what the marginal rate is, it does not matter what we do to close loopholes. Americans will know that no matter what the rate is and no matter what the state of the Tax Code, they will not have to pay because other people are not paying.

Finally, I spent 5 years as a prosecutor. I did not prosecute tax cases. I never have. But I prosecuted murderers, rapists, armed robberies, grand larcenies, organized crimes, and a host of other cases.

I know because I have appeared in front of judges and because I learned it in law school that part of the theory of criminal justice and of the law is that when necessary you use mitigating factors, when necessary leniency is its own tool in the propagation of respect for the law.

This is a classic example where this has happened in State after State. It has happened in New York, Illinois, California, Massachusetts, Wisconsin, Oklahoma, Minnesota, Colorado, Arizona, Alabama, Missouri, Kansas, Idaho, and North Dakota. We have a ream of experience which shows that respect for the law increases.

So I would ask my colleagues to think carefully. This is an important principle. If we vote for what my colleague from Arkansas is asking for we will be offered a choice between doing nothing because we philosophically do not agree with a notion of a partial forgiveness or doing nothing because we are going to leave the current system in place.

(Mrs. KASSEBAUM assumed the Chair.)

Mr. KERRY. I think the worker on any assembly line in this country, any honest taxpaying American who knows others have cheated but now are going to pay would be far happier knowing that a system is finally being put into place to put everybody back on the rolls.

I think the message it sends about fairness and enforcement is far, far stronger than a simple messsage "We don't like it, we are not going to do anything," because doing nothing guarantees a continued decline in enforcement, a continued rise in the revenue gap, and a continued sense of unfairness that people have about the Tax Code.

Thank you, Madam President.

□ 1410

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Madam President, I appreciate the remarks of the Senator from Massachusetts. Because Senator KERRY is from the State of Massachusetts, he thoroughly understands Massachusetts' experience with a voluntary disclosure program in order to collect back taxes and collect bad debts.

Massachusetts has been a leader in this area. It was one of the first States to enact provisions encouraging citizens who have not paid their back State taxes to come forward and pay. That has happened not only in Massachusetts, but in many States. Many States have enacted voluntary disclosure or amnesty provisions, to encourage their citizens to pay back taxes—the State of California, for example, and the State of Illinois. There are, I think, Madam President, about 18 States in the last several years that have enacted a program of this kind.

Why have they done so? They have done so because back taxes have not been paid by citizens of those States and they have done so because it is a program that works.

Madam President, it works very well. At first there were many naysayers in all these States. The naysayer says, "No, it is a bad idea. It is not fair to the honest taxpayer. It is not fair to have some kind of voluntary disclosure or amnesty provision where you waive prosecution in order to get the deadbeats in. It is not fair to the honest taxpayers who pay their fair taxes."

To the contrary, the fact is, that in all these States public opinion polls show that people like the program. They like it because people have come in and paid up and because, in all these States, the programs have been one-shot programs. They have not gone on forever.

I think we should include the same kind of provision in the Federal Tax Code. I say so because there were $600 billion of uncollected Federal taxes in the last 6 years. At the rate of $100 billion a year, we have accumulated $600 billion of unpaid Federal income taxes and other taxes. These are taxes that are owed to the U.S. Government, but have not been paid—$600 billion. That, Madam President, is many times the annual deficits we have had. We could have a balanced budget if we had collected those back taxes.

The question is: Is there a way to do it, and how? Very essentially, the program is this: First, we have to have sticks—we have carrots, too, and I will outline those—but first we have to have sticks to encourage people to pay their back taxes.

What are those sticks? The sticks are greater penalties. The sticks are more auditors. The present audit rate of Federal tax returns is about 1.3 percent. People are playing the audit lottery. They are hoping they are not going to get audited.

In order to encourage people to come in, we are going to increase the number of auditors, and tell people that there is a greater chance you are going to be audited, so you better come in.

Second, we are telling you that you better pay your taxes because the penalties are substantially increased.

We also have carrots. What is the carrot? The carrot is if you come in and pay all of your back taxes, all of them, and if you pay interest on top of your back taxes—that is the interest that has accumulated because of the amount of the back taxes have not been paid—and if you pay, in addition, civil penalties—which, by the way are very substantial—then the Government agrees to waive criminal prosecution.

Now, Madam President, those civil penalties are very significant, and they have to be paid in order to qualify. For example, the civil penalties included in this bill are 75 percent for tax evasion; that is, 75 percent of your back taxes. Also, the penalty for substantial underreporting is 20 percent. The penalty for not filing a return is 1 percent.

So, what it amounts to is this: If you add up the back taxes that would have to be paid, plus the interest, which compounds, plus the penalties, that taxpayer has to pay twice his back taxes. That is what it all adds up to. And if he does so, and if he has not been notified that he is under investigation, then he is entitled to a waiver.

Madam President, this has been labeled as an amnesty provision. This is not amnesty.

What is amnesty? Amnesty is pardon; forgiveness. The provision in this bill provides that a taxpayer is not excused of this liability to pay back taxes. He has to pay all of his back taxes.

Second, the taxpayer has to pay interest on all the back taxes. That is compounded, and adds up, over a period of time, to be very substantial.

Third, the taxpayer has to pay the civil penalties. That is very significant. It almost has the effect of doubling the amount of back taxes.

There is no amnesty here. It is a voluntary disclosure program where, if you come in voluntarily and disclose, and you pay everything you owe, then Uncle Sam will waive criminal prosecution.

Madam President, this is very important for another reason. Recent polls show that one out of five Americns admit to cheating on their income taxes—one out of five. There are about 100 million taxpayers. So there are 20 million Americans out there who admit they have not paid approximately $100 billion on a yearly basis.

We should bring them back into the system on the condition that they pay their back taxes, pay interest, and pay their civil penalty. If so, they will not be prosecuted.

I think, as a practical matter, this is what is happening: A lot of Americans have not paid their back taxes because of the complexity of the code. The

code has become so complex in the last couple of years that Americans think, by gosh, with all the loopholes in the Tax Code, the other guy is not paying his fair share, so Americans rationalize a little bit and say, "I will pay my fair share, but I will fudge a little."

The fact is a lot of Americans rationalize that fudging, rationalize underreporting, rationalize overdeducting, and have not been paying their share and now they are caught because they know they are felons and have not been living up to the tax laws.

I suggest that with the one-shot voluntary disclosure provision, because of the amendment I am going to offer now, that those Americans will want to come in. They will not be afforded the opportunity again, but at least they have the opportunity now. Because they know, if they do not come in now, with the increased auditors and increased penalties, Uncle Sam has a much better chance of getting them.

Madam President, I would be the first to admit that the voluntary disclosure provisions of the bill, although they are very good, are not perfect. To that end I have an amendment which I will send to the desk. Let me just briefly outline what this amendment is.

This amendment tightens up the voluntary disclosure provisions of the bill, to clarify several points that we originally intended to leave to the drafters of the implementing regulations, but now will add to the statute. Let me explain the changes.

First, the amendment requires that in order for a taxpayer to qualify for the voluntary disclosure provision, the taxpayer has to report the source of the income. The point is to address the potential case where a drug dealer comes in and he pays all the penalties, and so forth, but the criminal prosecution of the tax provision only is waived. Well, in order to make sure that the drug dealer could still be prosecuted under all the drug laws, we require, under this amendment, that the source of the income must be specifically indicated in order to even potentially qualify for voluntary disclosure.

Second, income from illegal activity does not qualify; that is, if a taxpayer has income from illegal activity, he is not entitled to the voluntary disclosure provisions of the bill.

Third, obviously, no fraud is allowed. I think that goes without saying. If a taxpayer comes in and falsely represents a source of income and attempts to get voluntary disclosure, it could then be revoked.

In addition, there is a 2-year sunset provision. That makes sure that this is a temporary program. It sunsets after 2 years in order to get the bulk of American taxpayers who have not paid back taxes. This, I think, fits in very nicely, Madam President, with the tax reform bill, which is a tax simplification bill.

Overall, this tax reform bill will increase Americans' confidence in the code. They will be less likely to rationalize, to fudge, to shave, to cut corners, because they know, if we pass this tax simplification bill, that everybody is more likely paying their fair share of taxes.

So I think it is part and parcel of tax reform.

There are a couple of other tightening provisions. But essentially that is what it is.

AMENDMENT NO. 2145 TO AMENDMENT NO. 2143 AS MODIFIED

Madam President, I now send the amendment to the desk, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The clerk read as follows:

The Senator from Montana [Mr. BAUCUS] proposes an amendment numbered 2145 to amendment numbered 2143.

Mr. BUMPERS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In lieu of the matter proposed to be inserted, insert the following:

SEC. 559. VOLUNTARY DISCLOSURE POLICY.

(a) IN GENERAL.—Except as provided in subsection (b), in the case of any violation of any tax law for any taxable period, the taxpayer shall not be liable for any Federal criminal penalty relating to tax administration under section 6103(b)(4) of the Internal Revenue Code of 1954 with respect to such violation if full disclosure of such violation, and the source of the income with respect to such violation, is made to the Secretary of the Treasury or his designee before notice of an inquiry or investigation into the taxpayer's tax affairs is given to the taxpayer (or a related party) by the Internal Revenue Service, any other law enforcement agency, or any tax administration agency.

(b) SPECIFIC EXCEPTIONS.—Subsection (a) shall not apply to any violation—

(1) of the National Firearms Act,

(2) related to income resulting from an action that is a violation of Federal, State, or local law (other than tax law), or

(3) with respect to which the taxpayer made any representation pursuant to an application for relief under this section which is false or fraudulent in an material respect.

(c) REGULATIONS TO IMPLEMENT POLICY.—Subsection (a) shall take effect upon the issuance by the Secretary of the Treasury or his delegate of such regulations as may be necessary or appropriate to carry out the purposes of such subsection. Such regulations shall be issued no later than January 1, 1987, and may provide that subsection (a) not apply to certain categories of persons. Subsection (a) shall not apply after the date which is 2 years after the date of the issuance of such regulations. In no event shall subsection (a) apply unless section 9505 of the Internal Revenue Code is in effect.

(d) REGULATIONS TO IMPLEMENT POLICY.—Subsection (a) shall take effect upon the issuance by the Secretary of the Treasury or his delegate of such regulations as may be necessary or appropriate to carry out the purposes of such subsection. Such regulations shall be issued no later than January 1, 1987, and may provide that subsection (a) not apply to certain categories of persons.

(e) PUBLICITY CAMPAIGN FOR VOLUNTARY DISCLOSURE POLICY, ETC.—

(1) IN GENERAL.—The Secretary of the Treasury shall supplement existing taxpayer service programs with a comprehensive publicity campaign concerning the provisions of subsection (a) and a public relations program to restore public confidence in the Federal tax system.

(2) PUBLICITY CAMPAIGN TECHNIQUES.—The publicity campaign shall include public press releases, annual notices to taxpayers, and notices in Internal Revenue Service publications for general public usage.

Mr. BUMPERS. Madam President, I yield to the majority leader.

Mr. DOLE. Madam President, I think we are going to have a vote here momentarily. We are going to try to restrict that vote to a 15-minute vote. If there is a second vote, it will follow immediately, and after these two votes, I think there will be no further rollcall votes today. We would like to do more business today.

Mr. BUMPERS. Madam President, I yield to the Senator from Montana for an additional comment without losing my right to the floor.

Mr. BAUCUS. Madam President, the essential thrust of this amendment is to tighten up the existing voluntary disclosure in the law today, as well as tighten up the voluntary disclosure provisions in the bill. There is a voluntary disclosure policy in effect today. The IRS practices the very same provisions that we are addressing both in the bill and by my amendment. My amendment tightens up present practice, because it sunsets it.

There is an involuntary IRS voluntary disclosure program right now. We tighten it up by sunsetting. We also tighten it up by requiring the taxpayer to report the source of the income. We also tighten it up because we say if a taxpayer engages in fraudulent information and tries to qualify, the waiver no longer applies.

There are other tightening provisions which we do not have time to enumerate here. But the thrust of this amendment is to tighten up the voluntary disclosure provisions that already exist as IRS policy today and tighten up the voluntary disclosure provisions that are in the bill.

Mr. BRADLEY. Mr. President, I will not oppose the amendment offered by the Senator from Montana, Mr. BAUCUS. I am pleased that he has modified his amendment, at my suggestion, to tighten the scope and duration of voluntary disclosure. As modified, the amendment would make implementation of voluntary disclosure and immunity from criminal penalties contingent upon appropriation of an

additional $200 million for IRS enforcement activities. It would also make the provision inapplicable to income from illegal sources and limit immunity from criminal penalties to a 2-year period. These modifications make it more likely that the voluntary disclosure provision will achieve its stated objective of fostering compliance with our tax laws. It is only because the Senator has accepted these tightening modifications that I will not oppose it. The amendment makes a bad amendment less bad.

Notwithstanding these improvements, the concept of immunity from criminal penalties is very troubling to me. I have always opposed Federal tax amnesty proposals because I believe they undermine people's respect for the integrity of our tax laws. Amnesty sends the wrong message to the vast majority of taxpayers who voluntarily comply. Accordingly, it would not distress me if the amendment to strike the voluntary disclosure provisions were to prevail. If it does not, I would hope that the conferees would not include any form of tax amnesty in the conference report.

Mr. BUMPERS. Madam President, I move to table the amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Arkansas to lay on the table the amendment of the Senator from Montana. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Rhode Island [Mr. CHAFEE], the Senator from Utah [Mr. GARN], the Senator from Arizona [Mr. GOLDWATER], the Senator from Texas [Mr. GRAMM], the Senator from Florida [Mrs. HAWKINS], the Senator from Nevada [Mr. HECHT], the Senator from New Hampshire [Mr. HUMPHREY], the Senator from Nevada [Mr. LAXALT], the Senator from Idaho [Mr. MCCLURE], the Senator from Alaska [Mr. MURKOWSKI], the Senator from Idaho [Mr. SYMMS], the Senator from Wyoming [Mr. WALLOP], and the Senator from Connecticut [Mr. WEICKER], are necessarily absent.

Mr. BYRD. I announce that the Senator from Texas [Mr. BENTSEN], the Senator from California [Mr. CRANSTON], the Senator from Illinois [Mr. DIXON], the Senator from New Jersey [Mr. LAUTENBERG], and the Senator from Vermont [Mr. LEAHY] are necessarily absent.

I further announce that, if present and voting, the Senator from Illinois [Mr. DIXON] would vote nay.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 41, nays 41, as follows:

[Rollcall Vote No. 144 Leg.]

YEAS—41

Abdnor	Exon	Metzenbaum
Armstrong	Ford	Pressler
Bumpers	Glenn	Proxmire
Byrd	Grassley	Pryor
Chiles	Harkin	Quayle
Cochran	Hart	Rockefeller
Cohen	Heinz	Rudman
Danforth	Helms	Sarbanes
DeConcini	Hollings	Sasser
Dodd	Inouye	Simon
Dole	Levin	Specter
Durenberger	Lugar	Wilson
Eagleton	Mattingly	Zorinsky
East	McConnell	

NAYS—41

Andrews	Hatch	Nickles
Baucus	Hatfield	Nunn
Biden	Heflin	Packwood
Bingaman	Johnston	Pell
Boren	Kassebaum	Riegle
Boschwitz	Kasten	Roth
Bradley	Kennedy	Simpson
Burdick	Kerry	Stafford
D'Amato	Long	Stennis
Denton	Mathias	Stevens
Domenici	Matsunaga	Thurmond
Evans	Melcher	Trible
Gore	Mitchell	Warner
Gorton	Moynihan	

NOT VOTING—18

Bentsen	Gramm	Leahy
Chafee	Hawkins	McClure
Cranston	Hecht	Murkowski
Dixon	Humphrey	Symms
Garn	Lautenberg	Wallop
Goldwater	Laxalt	Weicker

So the motion to table amendment No. 2145 was rejected.

□ 1440

Mr. LONG addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. LONG. Madam President, I was not in the previous discussion, but let me say the Baucus amendment is basically the committee position. The Baucus proposal merely codifies what we believe, that someone seeking such amnesty as the law provides should not have his case decided on a case-by-case basis. There ought to be some language in the law so he can see what his position is. That is basically what the Baucus amendment does. I think we ought to agree to the Baucus amendment.

The PRESIDING OFFICER. The question is on agreeing to the second-degree amendment.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. A parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BUMPERS. Since the motion to table was defeated and the Baucus amendment is an amendment to strike and insert the following language and the intent of the Bumpers amendment is to strike the tax amnesty provision in the bill, now the vote recurs on the Bumpers amendment. Is the effect of that to strike both the tax amnesty provision in the bill and the modification of the Senator from Montana?

□ 1450

The PRESIDING OFFICER. The second-degree amendment of the Senator from Montana has not been agreed to yet. The effect of it would be to reinsert the committee's position.

Mr. BUMPERS. I am sorry, Madam President; I did not understand that.

The PRESIDING OFFICER. The Baucus amendment with its modifications reinserts the committee's position.

Mr. BUMPERS. If the Baucus amendment is agreed to, then would the Bumpers amendment on the next vote simply strike the Baucus amendment as well as the language of the bill?

The PRESIDING OFFICER. The language of the Baucus amendment would replace the language of the Bumpers amendment.

Mr. BUMPERS. So that if his amendment is adopted and the Bumpers amendment is adopted, then we have tax amnesty as modified by the Baucus amendment?

The PRESIDING OFFICER. Yes. The Senator is correct.

Mr. PACKWOOD. Yeas and nays.

The PRESIDING OFFICER. The question is now on agreeing to the amendment of the Senator from Montana, the Baucus amendment.

Mr. DOLE. Madam President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The clerk will call the roll.

The bill clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Rhode Island [Mr. CHAFEE], the Senator from Utah [Mr. GARN], the Senator from Texas [Mr. GRAMM], the Senator from Florida [Mrs. HAWKINS], the Senator from Nevada [Mr. HECHT], the Senator from New Hampshire [Mr. HUMPHREY], the Senator from Idaho [Mr. MCCLURE], the Senator from Alaska [Mr. MURKOWSKI], the Senator from Idaho [Mr. SYMMS], the Senator from Wyoming [Mr. WALLOP], and the Senator from Connecticut [Mr. WEICKER], are necessarily absent.

Mr. BYRD. I announce that the Senator from Texas [Mr. BENTSEN], the Senator from Florida [Mr. CHILES], the Senator from California [Mr. CRANSTON], the Senator from Illinois [Mr. DIXON], the Senator from New Jersey [Mr. LAUTENBERG], and the Senator from Vermont [Mr. LEAHY], are necessarily absent.

I further announce that, if present and voting, the Senator from Illinois [Mr. DIXON] would vote "yea."

The PRESIDING OFFICER (Mr. GORTON). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 40, nays 43, as follows:

[Rollcall Vote No. 145 Leg.]

YEAS—40

Andrews	Gorton	Nickles
Baucus	Grassley	Nunn
Biden	Hatfield	Packwood
Bingaman	Heflin	Pell
Boren	Johnston	Roth
Boschwitz	Kassebaum	Simpson
Bradley	Kasten	Stafford
Burdick	Kennedy	Stennis
D'Amato	Kerry	Stevens
Denton	Long	Thurmond
Domenici	Matsunaga	Trible
Evans	Melcher	Warner
Goldwater	Mitchell	
Gore	Moynihan	

NAYS—43

Abdnor	Glenn	Pressler
Armstrong	Harkin	Proxmire
Bumpers	Hart	Pryor
Byrd	Hatch	Quayle
Cochran	Heinz	Riegle
Cohen	Helms	Rockefeller
Danforth	Hollings	Rudman
DeConcini	Inouye	Sarbanes
Dodd	Laxalt	Sasser
Dole	Levin	Simon
Durenberger	Lugar	Specter
Eagleton	Mathias	Wilson
East	Mattingly	Zorinsky
Exon	McConnell	
Ford	Metzenbaum	

NOT VOTING—17

Bentsen	Gramm	McClure
Chafee	Hawkins	Murkowski
Chiles	Hecht	Symms
Cranston	Humphrey	Wallop
Dixon	Lautenberg	Weicker
Garn	Leahy	

So the amendment (No. 2145) was rejected.

□ 1510

AMENDMENT NO. 2143

The PRESIDING OFFICER. The question recurs on the amendment of the Senator from Arkansas [Mr. BUMPERS], the Senator from Georgia [Mr. MATTINGLY], and the Senator from Ohio [Mr. METZENBAUM].

The amendment (No. 2143) was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. RIEGLE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2146

(Purpose: To clarify the provisions of the Tax Reform Act of 1984 relating to obligations directly or indirectly guaranteed by the Federal Government)

Mr. GORE. Mr. President, I have an amendment that I send to the desk and ask for its immediate consideration.

Mr. DOLE. Mr. President, will the Senator from Tennessee yield?

Mr. GORE. I am delighted to yield.

Mr. DOLE. Mr. President, let me indicate there will be no more rollcall votes, but the managers would like to dispose of 20 to 30 of the amendments yet this afternoon.

So I urge my colleagues to stick around if you have amendments to be disposed of by voice vote.

The PRESIDING OFFICER. The clerk will report the amendment of the Senator from Tennessee.

The legislative clerk read as follows:

The Senator from Tennessee [Mr. GORE] proposes an amendment numbered 2146.

Mr. GORE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2710, line 22, strike out "or".

On page 2711, line 11, strike out the period and insert in lieu thereof a comma and "or".

On page 2711, between lines 11 and 12, insert the following new subparagraph:

(D) if—

(i) such facility is a thermal transfer facility,

(ii) is to be built and operated by the Elk Regional Resource Authority, and

(iii) is to be on land leased from the United States Air Force at Arnold Engineering Development Center near Tullahoma, Tennessee.

On page 2712, between lines 2 and 3, insert the following new subparagraph:

(D) In the case of a solid waste disposal facility described in paragraph (2)(D), the aggregate face amount of obligations to which paragraph (1) applies shall not exceed $25,000,000.

Mr. GORE. Mr. President, this amendment has been accepted by the manager of the bill and the ranking minority member.

Mr. LONG. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order. The Chair cannot hear and the Members cannot hear.

Mr. GORE. Mr. President, I will not belabor this. It has been accepted by the chairman of the committee and the ranking minority member. If I could explain it just briefly, it is a technical amendment, not a transition amendment. There are five counties in southern middle Tennessee that have been trying for 8 years to put together one of these facilities that burns solid waste to create steam, and one of the customers for the steam is an Air Force facility. It is not a take-or-pay contract. It is a normal contract of the kind that they are entering into in these kinds of facilities all over the country.

But there is a danger, according to their bond counsel, that this formal contract could be construed as a Government guarantee of the kind that would prevent them from getting the favorable tax treatment on their bonds the same as all other such facilities get.

Everybody who has looked at it on the committee agrees that it is technical in nature, it is designed to clarify what the intent of the law really is to begin with, the 1984 law, and as a result I would ask my colleagues to approve it.

Mr. LONG. Mr. President, will the Senator yield?

Mr. GORE. I yield to the Senator from Louisiana.

Mr. LONG. Mr. President, I personally favor the amendment and I am sure the chairman of the committee favors the amendment. I think this is one that, when it comes to the vote, he will have the majority of the vote for it.

There is an absent Senator who apparently opposes the amendment and is not here at this point. On his behalf I have to insist that this amendment go over. If he wants a vote on it then we can vote on it Tuesday. At any rate, I would be glad to give the Senator the name of the Senator and what the problem is. But since that Senator is not here and he is absent and would oppose the amendment, I have no choice but to ask the Senator that he hold the amendment over and bring it up at a time when we can have a rollcall vote on it if need be.

I assure him I will vote for his amendment.

Mr. PACKWOOD. Mr. President, let me indicate what is happening to the Senator from Tennessee. We are taking no transitional rules. One of the Senators out here thinks this is a transitional rule. We did not think it is. If he were here, he wants to argue it is a transitional.

Because I indicated any Senator who thought something was a transition rule, I will hold it over.

I did not have a chance to tell the Senator that. I just found out about this in the last 3 or 4 minutes.

Mr. GORE. Mr. President, I ask unanimous consent that the vote on this amendment be deferred until a point prior to the passage of the bill Monday or Tuesday.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PACKWOOD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. GRASSLEY). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GORTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2147

(Purpose: To amend the Internal Revenue Code of 1954 to provide tax-exempt status for organizations which assist in introducing into public use technology developed by qualified organizations)

Mr. GORTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Washington [Mr. GORTON] proposes an amendment numbered 2147.

Mr. GORTON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2207, before line 14, insert the following new subsection:

(e) TAX-EXEMPT STATUS FOR ORGANIZATIONS INTRODUCING INTO PUBLIC USE TECHNOLOGY DEVELOPED BY QUALIFIED ORGANIZATIONS.—

(1) IN GENERAL.—Section 501 (relating to exemption from tax on corporations, certain trusts, etc.) is amended—

(A) by redesignating subsection (m) as subsection (n), and

(B) by inserting after subsection (1) the following new subsection:

"(m) ORGANIZATIONS INTRODUCING INTO PUBLIC USE TECHNOLOGY DEVELOPED BY QUALIFIED ORGANIZATIONS.—

"(1) IN GENERAL.—For purposes of this title, an organization shall be treated as an organization organized and operated exclusively for charitable purposes if such organization—

"(A) is organized and operated exclusively—

"(1) to provide for (directly or by arranging for and supervising the performance by independent contractors)—

"(I) reviewing technology disclosures from qualified organizations,

"(II) obtaining protection for such technology through patents, copyrights, or other means, and

"(III) licensing, sale, or other exploitation of such technology,

"(ii) to distribute the income therefrom, after payment of expenses and other amounts agreed upon with originating qualified organizations, to such qualified organizations, and

"(iii) to make research grants to such qualified organizations,

"(B) regularly provides the services and research grants described in subparagraph (A) exclusively to 1 or more qualified organizations, except that research grants may be made to such qualified organizations through an organization which is controlled by 1 or more organizations each of which—

"(i) is an organization described in subsection (c)(3) or the income of which is excluded from taxation under section 115, and

"(ii) may be a recipient of the services or research grants described in subparagraph (A), and

"(C) derives at least 80 percent of its gross revenues from providing services to qualified organizations located in the same state as the state in which such organization has its principal office; and was incorporated on July 20, 1981.

"(2) QUALIFIED ORGANIZATIONS.—For purposes of this subsection, the term 'qualified organization' has the same meaning given to such term by section 30(e)(6)."

On page 2207, line 14, strike out "(e)" and insert in lieu thereof "(f)".

□ 1520

Mr. GORTON. Mr. President, this amendment will clarify the tax status of a nonprofit organization that assists in taking technology out of university laboratories and transferring it to industry and commerce. Clarifying the tax status of this organization will encourage and stimulate the transfer of technology so that the economy and the public will have the benefits to be derived from new products.

The need for practical transfer of research results to the marketplace appears to be greater than ever. The President's Commission on Industrial Competitiveness has warned that the United States is losing its ability to compete in world markets. The Commission's 1985 report notes that the United States had lost world market share in 7 out of 10 high-technology sectors.

Although foreign trade barriers have contributed to this decline, the commission stated that a basic problem is the failure of American high technology companies to translate new technology consistently into competitive products. The Commission also noted that the United States has failed to provide its own technologies to manufacturing. Robotics, automation, and statistical quality control were all first developed in the United States, but in recent years, they have been more effectively applied in other countries.

The Subcommittee on Science, Technology, and Space held hearings on technology transfer last year. During the course of those hearings, we learned of the development of new institutions aimed at bringing technology out of the laboratory. Cooperative service organizations represent one such promising new institution. These privately funded nonprofit organizations form a necesary link in the process of effectively bringing technology out of our Nation's laboratories by identifying and commercializing new technology. They license new technologies, help form startup companies, and assist in establishing research and development partnerships.

A recent Tax Court decision, however, threatens to cut off this innovative mechanism for promoting technology transfer in my home State of Washington. This amendment takes a step toward improving our Nation's ability to transfer technology by clarifying the status of a privately-funded nonprofit organization working with the University of Washington. This clarification will promote the development of this cooperative service organization, and help ensure that our Nation remains on the cutting edge of technological change.

It is as narrow as it is, Mr. President, because of certain concerns on the part of the distinguished Senator from Connecticut, Senator WEICKER. It has been checked with the majority staff and with the minority staff and has been, I believe, approved by both.

Mr. PACKWOOD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GORTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PACKWOOD. Mr. President, the reason I asked for a temporary delay is that I had a mistaken impression of what the revenue impact was. I was wrong. I have no objection to the amendment.

The PRESIDING OFFICER. Is there further discussion on the amendment?

Mr. BRADLEY. Mr. President, as I understand it, this amendment overrules a Tax Court case that said that this entity could be tax exempt.

Mr. GORTON. The Senator is correct.

Mr. BRADLEY. And that this would allow them to be tax exempt and engage in the marketing of patents.

Mr. GORTON. Yes; the Senator is correct.

All of the profits from the foundation will go to the University of Washington which is, of course, a tax-exempt organization itself, or to scholarships and fellowships for that or other universities.

Mr. BRADLEY. Does this apply to any other university, other than the University of Washington?

Mr. GORTON. It does not, I tell my colleague from New Jersey, because of concerns about a generic bill which this Senator introduced, which would have general applicability, concerns expressed by the Senator from Connecticut, who wanted hearings on that bill before it was generally applicable.

Mr. BRADLEY. So, to your knowledge, no other university is able to market their patents as a tax-exempt entity?

Mr. GORTON. That is not quite correct. When this organization or foundation was put together, it had only very slight differences, as I understand it, from a number of similar foundations which are engaged in this kind of efforts which are tax-exempt.

Mr. BRADLEY. So, to your knowledge, no other university uses a 501(c)3 to market patents?

Mr. GORTON. I believe so.

The PRESIDING OFFICER. Is there further discussion on this amendment?

Mr. BRADLEY. One last question. Do you know what the revenue impact of this amendment is?

Mr. GORTON. As far as I know, I would tell my colleague, it is minimal or would almost be nonexistent, but the organization could not exist without it.

The PRESIDING OFFICER. Is there further discussion on the amendment? If not, the discussion is on agreeing to the amendment.

The amendment (No. 2147) was agreed to.

Mr. DOLE. I move to reconsider the vote by which the amendment was agreed to.

Mr. GORTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOLE. Mr. President, we are calling Members on this side to encourage them to come to the floor. I hope that the managers can dispose of another 8 or 10, or more, amendments. I have a feeling that, come Tuesday, about 3 o'clock, about 50 Members who did not show up today or will not show up on Monday will be demanding time to debate their amendments and we could extend that final passage from 4 o'clock. It could be midnight on Tuesday.

I know that there are a number of our colleagues who cannot be here beyond 6 p.m. on Tuesday. So I hope that those who are really serious about their amendments will come to the floor this afternoon and cooperate with the manager. If there are yeas and nays ordered, the votes on the amendment will be postponed until early Tuesday morning.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. GORTON). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

□ 1530

Mr. GORE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2146

Mr. GORE. Mr. President, I have an amendment that was previously sent to the desk, and I am informed that the Senator who was absent and had raised a question about it has now signed off on it. I do not think anything else needs to be said about it. But I ask for a vote on it, not a record vote unless somebody else wants one. I ask that we just go ahead and agree to it at this point.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. LONG. Mr. President, the Senator is correct. As far as I am concerned, I am ready to have a vote.

Mr. PACKWOOD. I agree. It has been cleared. That is fine with me, Mr. President.

Mr. GORE. This amendment which my colleague, the senior Senator from Tennessee, and I are offering will enable five Tennessee counties to receive tax exempt bonds to build a thermal transfer facility on property leased from the U.S. Air Force near Tullahoma, TN. The purpose of this amendment is to clarify that the contract which this facility will have with the Air Force for steam produced at the facility does not constitute a Federal guarantee under section 103(h) of the Internal Revenue Code of 1984.

Five counties in middle Tennessee, Bedford, Coffee, Lincoln, Franklin, Lincoln, and Moore, have formed the Elk Resource Authority to build and operate this facility. Officials from these counties are to be congratulated for having developed an innovative solution to solid waste disposal with this project, and we are grateful for the opportunity to help make it a reality.

I want to emphasize that this amendment is not a transition rule, and it has been cleared by all interested parties. My colleague from Tennessee and I deeply appreciate the willingness of the chairman, the ranking minority member of the Finance Committee, the Senator from Ohio, and other interested parties to accept this technical amendment.

Mr. SASSER. The amendment that my colleague from Tennessee and I are offering makes technical corrections in the committee bill which affect a significant project in Tennessee. We are not offering a transitional rule amendment. Our amendment has therefore been cleared by all interested parties, including the Senator from Ohio.

Our amendment deals with a thermal transfer facility. Local officials in five Tennessee counties joined together to form the Elk Resource Authority. These officials from Bedford, Coffee, Lincoln, Franklin, and Moore Counties banded together on this important project which will benefit their area.

The purpose of the Elk Resource Authority is to build and operate a thermal transfer facility on property leased from the U.S. Air Force at Arnold Engineering Development Center near Tullahoma, TN. This facility will produce steam for purchase by the Air Force at Arnold.

This project is particularly attractive as it produces steam in an effective and environmentally sound manner. Solid waste is brought to the facility from throughout the region. This waste is then disposed of and in the process, energy is recovered in the form of steam. This steam will then be sold to the Air Force for its energy needs.

This environmentally attractive project is dependent upon tax exempt financing to become a reality. Local government officials have expressed concern to me that this tax reform bill threatens the availability of this needed financing. My colleague and I share their concern and offer our amendment to ensure that this very worthy project can go forward.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Tennessee.

The amendment (No. 2146) was agreed to.

Mr. GORE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LONG. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

□ 1540

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the order for a quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2148

Mr. GRASSLEY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Iowa [Mr. GRASSLEY], for himself and Mr. DOLE, proposes an amendment numbered 2148.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 1515, between lines 21 and 22, insert:

(16) CERTAIN TRUCKS.—The amendments made by section 271 shall not apply to trucks, tractor units, and trailers which a privately held truck leasing company headquartered in Des Moines, Iowa, contracted to purchase in September 1985.

On page 1509, between lines 21 and 22 insert:

Paragraph (5) of section 202(d) is amended by adding at the end thereof new subparagraph (o) as follows—

(o) A project is described in this paragraph if—

(i) a commitment letter was entered into with a financial institution on January 23, 1986 for the financing of the project,

(ii) the project involves inter-city communication links (including microwave and fiber optics communications systems and related property),

(iii) the project consists of communications links between—

(a) Omaha, Nebraska and Council Bluffs, Iowa,

(b) Waterloo, Iowa and Sioux City, Iowa,

(c) Davenport, Iowa and Springfield, Illinois, and

(iv) the estimated cost of such project is approximately $13,000,000.

Mr. GRASSLEY. Mr. President, this amendment deals with two instances that the committee meant to include in the original bill that were inadvertently left out. If there is any further clarification which needs to be done, I will ask the chairman of the committee to do that. I ask for the consideration of these amendments at this time.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PACKWOOD. Mr. President, the amendment of the Senator from Iowa has two parts, one relating to a company called Teleconnect.

We thought in the drafting of the bill that Teleconnect was covered in the transition of the bill because we covered a larger company, of which we thought Teleconnect was a part. I think it is a technical drafting error, why Teleconnect was not covered.

The other involved Ruan Trucking. At about 9 o'clcock at night on the night we were drafting the bill, we received final information and intended that Ruan be in the bill. The bill was filed at noon the next day and it was not. Someplace between our committee and the joint committee which was doing the final costing it was dropped out.

Mr. President, I have no other explanation for it but that. It was our intention that it be in.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is——

Mr. BRADLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. BRADLEY. Mr. President, I report there is a strong objection on this side to the amendment. Therefore, I object. I have to suggest that the Senator withdraw it until a certain Senator can be consulted in terms of his personally coming to the floor, or until he removes his objection.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

□ 1610

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. MCCONNELL). Without objection, it is so ordered.

Mr. MOYNIHAN. Mr. President, I say to the chairman of the Finance Committee, Senator PACKWOOD, that I believe the Finance Committee made important and commendable reforms in the area of international taxation. But I do want to clarify a few points concerning international banking.

To limit potential abuses, the committee defined "bona fide" banking in the international context. A bona fide bank is defined as one which regularly and continually conducts with unrelated parties at least one of several traditonal banking activities, such as taking deposits from the public, making loans to the public, and so on. It also must do so on a "substantial" basis. Although the "substantial" test is drafted in a complex manner, I assume it is obvious that the committee did not intend it to undercut the definition I just described. Thus, for example, a bank the liabilities of which consist substantially of deposits from the public will not be disqualified if some of its assets are not loans to the public, so long as it does regularly and continually make loans to the public. Similarly, a bank the significant majority of the income of which is derived from loans to the public will not be disqualified because it has substantial shareholder equity, so long as it actively, regularly and continually solicits deposits from the public.

Mr. PACKWOOD. The Senator is correct.

Mr. MOYNIHAN. Am I also correct that the term "public" for this purpose means unrelated individuals, corporations, governments, banks, and other entities?

Mr. PACKWOOD. Yes, the Senator is correct, assuming, of course, that he is talking about broad multiple public dealings, rather than a single or limited number of dealings with unrelated entities.

Mr. MOYNIHAN. I thank the chairman.

I would also like to ask about the committee report on bona fide banking. The report states that loans will not be treated as loans if they are negotiated by another. I understand this was meant to prevent passive buying of receivables and so on. I assume it was not meant to preclude bank-to-bank participations entered into in the normal course of business. Participations are a prevalent form of lending in both domestic and international banking. They occur when a lead bank "lays off" a portion of a large loan to a group of participating banks. The participating banks investigate, independent of the lead bank, the credit of the borrower, and are fully subject to the credit risk presented by the borrower. They typically are not guaranteed in any way by the lead bank. This is one of the few ways large credit facilities can be put together, and it prudently reduces the exposure of any one bank.

Mr. PACKWOOD. The Senator is correct. The committee report language was not intended to preclude bank-to-bank participations where the participating bank is in fact at risk with regard to the borrower and performs other traditional banking activities, such as investigating the credit of the borrowers, in connection with the transactions.

Mr. MOYNIHAN. I thank the chairman.

My final question relates to the third test of bona fide banking, which involves the international capital markets. The proposed statutory language refers to underwriters of initial issues and brokers. I assume that an active dealer in securities in the secondary market, who purchases debt obligations for public resale and distribution in the international capital markets, also meets this test?

Mr. PACKWOOD. The Senator is correct.

Mr. MOYNIHAN. I thank the chairman.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

□ 1620

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that I might proceed for 90 seconds as though in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

ALAN EMORY'S PHILIPPINES COVERAGE

Mr. MOYNIHAN. Mr. President, in addition to its distinction as one of the Nation's finest regional newspapers, the Watertown Daily Times also employs as its Washington correspondent the respected dean of the New York press corps, Alan Emory. On occasion, Mr. Emory is dispatched to distant places to bring home to his readers, and they are far and wide in New York, not only in northern New York, his own unique perspective on world affairs. Such was the case recently when Mr. Emory visited the Philippines to interview President Corazon Aquino and other members of the new government there. The result was an

insightful series of articles. For the benefit of my colleagues and students across the country who received the CONGRESSIONAL RECORD in libraries and who will not have had access to the original series, I ask unanimous consent that the articles be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

AQUINO'S IN CHARGE

(By Alan Emory)

MANILA.—The first time she experienced her new-found power, President Corazon C. Aquino says, is when she visited Camp Aguinaldo, the military headquarters here, where her husband, assassinated Sen. Benigno Aquino, had been imprisoned.

It was, she said in a 45-minute interview at the Malacanang Palace Guest House, "a very nervous experience. There was always a moment of fear."

Previously she had pleaded with authorities there, unsuccessfully, to release her husband, but now things had "really changed. It was a 180-degree turn.

"Here I come with my military escort. All the generals are there, just waiting. For the first time I felt I was really president."

"I guess I'm not a traditional politician," she confessed with a smile. "If my husband were here you would be facing a man really enjoying the presidency."

However, there is a growing feeling in Manila that Mrs. Aquino is settling into her new job, politician or no.

The interview took place in a room with white walls, flags and a silk emblem of the Philippine presidency, a carved wooden archway and red patterned oriental rugs.

Mrs. Aquino, wearing a white dress with a diagonal pattern on top, no jewelry except for small earrings and a watch, settled down on a brocaded bench surrounded by large oriental vases on the floor.

She smiled frequently and answered many questions with her arms crossed.

She was, she says, given her new role "for a special reason. I have to refer to myself now as a politician, but not a traditional politician."

She says she is grateful for the opportunity, but that it is not a question of liking it. When she accepted the draft to oppose Ferdinand E. Marcos, she adds, "I made up my mind to do the best to win. When I assumed office I committed myself to doing a good job.

"I am a very private person. I loved my privacy, and I have lost that. I have lost my freedom."

Her older children, she confesses, are "not too happy" about her being president because "they have lost their privacy, too."

When President Reagan telephoned her last week—the first call he had made since the late February take-over—it was 11:30 at night Manila time. Mrs. Aquino had been watching television and, she says, a daughter was around, so being up late was no problem.

About the only time she seemed to bridle a bit was when she was asked if she were really in charge. "Ask the cabinet ministers," she replied stiffly.

She readily concedes there are differences within the cabinet, but she says, "This is what democracy is all about, unless it hampers the presidency. We were all in this together. We will have to answer to the people."

Mrs. Aquino, a Catholic, describes herself as "a deeply religious person," and she says religion has played an important role in her rise to the presidency.

When it comes to the question of the Filipino population, she acknowledges that her husband, as a provincial governor, tried to limit the population, but she says she herself has no policy to deal with "the population explosion."

She wants to encourage urban dwellers to travel to less populated rural areas and to boost small business.

"None of us ever thought the February revolution would happen," she says, reflectively, round tinted glasses shading her eyes.

She made frequent gestures with her hand in describing the Filipinos as "a peaceful people."

She wants to keep her options open on the American bases at Clark Airfield and Subic Bay, a naval installation. The revenue they generate is important, she concedes, but "many things are important, and I will answer when the time comes" to make a decision on the renewal of their lease in 1991.

Mrs. Aquino acknowledges that she has no political party base, but she links her popularity to keeping "in close touch with the people." She will visit the provinces, and, she says, "I am here because of the people. While I still have popularity I plan to continue a dialogue with the Philippine people."

She confesses her government is still not prepared to carry out any major economic program, but she looks at a project of former President Ramon Magsaysay installing artesian wells around the country.

"He was remembered for that," she says, and she is considering a "Cory Aquino Project" to improve the water situation that would not involve a large amount of money and could be done "quite easily," with private sector involvement.

Mrs. Aquino says, with obvious satisfaction, that she has been "able to awake large numbers of private sector enthusiasts, and I don't want to let that go. I want to sustain this new-found commitment."

ENRILE NEARLY HANDED COUNTRY "ON A SILVER PLATTER"

(By Alan Emory)

MANILA.—Butter wouldn't melt in Juan Ponce Enrile's mouth. But it might freeze.

The man who finds "no problem at all" in switching from defense minister under deposed Philippine President Ferdinand E. Marcos to defense minister under President Corazon C. Aquino appears cold, calculating, almost arrogant.

To suggestions that he is biding his time to seize power he replies, matter-of-factly, "If I wanted any more power than in this ministry I would have seized the government. It was being given to me on a silver platter by President Marcos."

He says 85 percent of the "entire military organization's firepower" was available to go either way, and he adds, almost off-handedly, "We had no objection whatsoever to anybody, to give it to any one. But we did give (it) to the civilian government . . . the civilian authority, because that is actually our political ideal, (the ideal) of the younger officers."

In contrast with the other members of the so-called "Harvard Mafia" in the Aquino administration, the 62-year-old law-trained Enrile has a flat, emotionless delivery and manner that can chill an interviewer.

When he is asked about Mrs. Aquino's narrative of her experience going to Camp Aguinaldo, seat of the defense ministry, to plead for the release of her then-imprisoned husband, Benigno, Enrile replies calmly that she did visit him once or twice, but "most of the time she wrote me letters," which he passed on to his superiors.

That, apparently, was all he did. His explanation sounded like an echo of the defendants at the Nuremberg trial.

"I find no difficulty in it because I was acting as an administrator," he said in a recent interview arranged through the Georgetown University Center for Strategic and International Studies. "My personal choices were different from my own official action. . . There was no emotion involved."

The situation, he conceded reluctantly, was "unpleasant," but he added, "I was acting in accordance with policies established by authority higher than mine . . .

"I am guided by my conscience."

His recollection of events immediately preceding Marcos' overthrow differ somewhat from those of Armed Forces Chief of Staff Fidel V. Ramos, who also made the Marcos-to-Aquino shift, but, according to observers, did so as a professional soldier.

General Ramos, in a separate interview, said he and a handful of troops jogged out Aguinaldo's gate and over to Enrile's compound, expecting to be fired on at any moment, and Marcos might have ended the revolution right then. But they got through without incident.

The Enrile version is that the revolution was not an "overnight activity" and "could have happened a year later, six months later without an election" and would have occurred at "some future time."

Enrile's conversion is thought to have been spurred by the information that Marcos was preparing to arrest him because of the impression the defense boss was keeping one foot in each political camp.

Western diplomats are not very enthusiastic about Enrile, who says he has no plans to resign his cabinet post in three years or so and retire.

"Many people in the government view him as a major part of the (internal tension) problem," says one American official in Manila. "It is not surprising there is a certain residue of suspicion.

However, the official adds that Enrile wants the government to succeed and "will make a considerable effort" to that end. "He won't hesitate to express his own views on what he perceives as mistakes in the government, but he did that under Marcos."

Experts note that Enrile has a "regional," rather than a national, political constituency, and that, unlike many other cabinet members, never served in the Philippine Senate.

Enrile himself insists he has "no intention" of becoming a civilian president.

If his almost expressionless reaction to an ambush in his home province of Cagayan staged by Communist-leaning rebels and their murder of two newsmen and a former close Army associate came as a surprise, his biting comments on the controversial wholesale replacement of local officials by the new administration did not.

To him the substitution of "people who were never elected, some said to be of questionable stature," could only invite popular resistance, build tension and "loosen political stability."

He would not lay blame by name, but, when asked if the problem did not come under the local government ministry run by

Aquilino Pimintel, he told the questioner, "You are a good cross-examiner."

He argued, and lost, within the cabinet, against the replacement policy. Rather than try to keep internal differences of opinion under wraps and explain simply that the policy had been approved, he commented coolly, "Whether they agree or not, that's my position."

Of himself he says, "I seldom talk unless I have a reason to talk." When asked for comment on view of others, he replies bluntly, "I cannot read minds."

Western experts rating key members of the new Philippine government give high marks to many and shrug off others. They are cautious about General Ramos.

But when it comes to Enrile they express a subdued negativism as though they recognize a real danger spot.

After talking to the defense minister a reporter can quickly understand why.

SHOES, FEW WINDOWS

(By Alan Emory)

MANILA.—The shoes are all there.

Racks and racks of them, all colors and styles—blue, red, pink, cream, high-heels, low-heels, medium-heels.

A large basket is filled with sunglasses, another with sandals. There is a box crammed with umbrellas.

All of this is on view at Malacanang Palace (last syllable pronounced "yang"), where thousands of ticket-holders file through daily to gawk and shake their heads in dismay and wonderment. No photographs are allowed inside.

The palace itself is an unprepossessing place from the outside, a whitewashed long structure, Spanish-style, with very few windows. Imelda Marcos didn't like them.

There are photographs of deposed President Ferdinand E. Marcos stripped to the waist, in bathing trunks and wearing a baseball-type cap, looking super-virile, and a painting of him bare-chested in a field of sugar cane.

The shoes, of course, are the focus of attention.

The woman in charge of them applied for a job at the palace after the revolution and got the plum concession.

Has she tried on any of the shoes? Certainly not.

Anyway, they are size seven and a half. Too big.

Although the legendary black bras and panties are not on display now, there are innumerable gowns, some designed for the 1986 inaugural, which occurred just prior to Marcos' ouster. They share space with 15 coats of sable, mink and ermine—perfect for Manila's tropical climate—blouses, feather boas and a bulletproof kevlar-lined vest (for her) and raincoat (for him).

Imelda's bedroom holds a huge canopy bed with 20 pillows and gauzy curtains, an oxygen tank nearby (for her husband?), a piano and ceramic figures in lighted cases.

Add to that a painting composed of buildings which spell out "Imelda Marcos," as well as hand-carved chandeliers in the ballroom with recessed vaults above them, wooden carved square entry ways with fleur-de-lis openings, stained-glass doors, inlay tables and a $7,000 toy car that runs on gasoline—for a grandchild—and has two silk red hearts on it, one saying "Imelda," the other "Marcos."

There are heavy pictures with mother-of-pearl figures, and Imelda's dressing room has mirrors framed in large light bulbs bigger than those provided for Broadway and Hollywood stars.

The private Marcos study has floor-to-ceiling bookcases. The library contains a blackboard map showing where Army Chief of Staff Fedel V. Ramos and his defecting troops had holed up.

The former president's bedroom is filled with hospital equipment, exercise machines, an oxygen tank—and a special escape door. That doesn't count a private two-room hospital, fully equipped.

At the end of the palace tour a visitor sees stacks of empty trunks that the Marcoses couldn't fill before they had to flee the country.

More than 30,000 Filipinos crowd through the palace every weekend. The lines form early, and citizens charge that wads of eagerly sought tickets are often pocketed by officials and police to hand out to friends or to "scalp" for up to $2.50 apiece.

The government is now considering charging a fee to visit the palace on certain days. That would certainly help the local economy, which can use all the revenue it can collect, but any significant charge would be beyond the means of the average Filipino.

Tourism Minister Jose Antonio Gonzales, a former employee of General Telephone, Del Monte Foods and Tupperware in California and the Far East, quips that his qualification for his cabinet post was having been an international tourist.

The Philippines, he concedes, has a very poor tourist image, spurred by a "sensationalist" press. The top tourist market is Japan, but there are more American arrivals because of the large number of Filipinos returning from the United States.

Gonzales is launching an ad campaign to popularize his country, using a slogan "Come Celebrate the New Spirit."

He got his job because assassinated Sen. Benigno Aquino, husband of President Corazon C. Aquino, was his best friend, and he applied for it five years ago in hopes of a government turnaround. When it occurred Mrs. Aquino remembered, "as she does most things."

Part of his problem was that Imelda Marcos' friends ran all the duty-free stores and turned over to the government about 20 percent of what they should have. One Marcos crony, Roman Cruz, who still lives at the Manila Hotel, the city's swankest, bought a choice retail location in San Francisco across from Nieman-Marcus and Macy's. The government wants to sell it.

When a reporter asked what Cruz was still doing at the hotel, Gonzales replied, "I guess he's counting his money."

The government is turning some of the 38 Marcos vacation homes in the country into tourist spots, while others will be sold.

Travel agents and writers will be brought to the Philippines, and beach areas will be improved and given road access they lack now.

For about $2 million, says Gonzales, the island of Corregidor can be turned into a prime attraction, with the elimination of "gingerbread boxes" and the requirement that no building be higher than a coconut tree.

Gonzales says he wants "Asian architecture and western plumbing."

His own ministry is loaded with deadwood, but he is reluctant to fire the full 80-percent surplus because of the already staggering unemployment.

Some employes are known as "15-30s" because they "just show up on the 15th and 30th of each month."

As a group of reporters organized by the Georgetown University Center for Strategic and International Studies was finishing its tour of Malacanang Palace the other day, one approached a Filipino in the long line, and the following dialogue ensued:

"I am an American journalist. What do you think of all this?"

"Fantastic," was the reply.

"Have you been here before?"

"No, this is the first time."

"Where are you from?"

"I'm from Chicago."

AQUINO'S STAYING POWER MUCH IN QUESTION

(By Alan Emory)

MANILA.—Gen. Fidel V. Ramos, the chief of staff of the New Armed Forces of the Philippines, puts it bluntly: "I don't see how the Philippines can go it alone against external threats in the future. The (American) bases contribute to external security. We feel they are necessary."

The future of the American bases—Clark Air Field and Subic Bay Naval Base— "will be up to the Philippine people" when presented to them in a plebiscite, says President Carazon C. Aquino.

The United States "will be with us for some time," says Defense Minister Juan Ponce Enrile. "It would be difficult to consider the American presence in this part of the world eliminated."

"So many say they are speaking for the people," says Vice President and Foreign Minister Salvador H. Laurel. If the people wanted to take the bases back the U.S. would "bow" to their will.

The bases do "not have that much depth" as an issue, says a top-ranking Western diplomat. "The bases are not a major political issue. Some people fear that in a referendum the bases will win." But government officials in Washington call the bases the best bargain the U.S. can boast.

Differing views of the bases—the U.S. lease runs out in 1991—reflect some of the political strains that create questions about the staying power of Mrs. Aquino's government.

Laurel wanted to run for president himself and was threatening an independent candidacy that would have doomed the Aquino movement. The Times has learned that, at the urging of Heherson (Sonny) Alvarez, then informal Aquino ambassador in the U.S. and now agrarian reform minister, Sen. Edward M. Kennedy, D-Mass., sent a cable to Laurel, pleading with him to keep unity in the anti-Marcos forces. The message helped prevent a separate Laurel candidacy, and now, one observer says, he is "welded to her (Mrs. Aquino) like a Siamese twin. He has been quite careful not to separate from her personally. He realizes his influence is greater when she has confidence in him. I think she trusts him."

Said Laurel, in an interview in his crowded office, reflecting a government in transition, "I give her advice when I think I should because she needs it."

Resting his chin on his hand, Laurel, a black-haired man with a thoughtful manner, added, "she delegates authority and allows them (aides) to work."

General Ramos, who is short and bespectacled, his dark hair flecked with gray, and firm in attitude, stresses his forces' "profesisonalism, discipline, loyalty (and) integrity." It was the disappearance of this in the military under deposed President Ferdinand E.

Marcos that prompted him to go over to the revolutionaries.

He says that now local commanders are being allowed to follow their own initiatives in dealing with insurgents and other problems.

Although Genera' Ramos is careful to avoid the role of politician, unlike Enrile, he finds "fluidity in the political situation," tied to economic recovery.

Information Minister Teodor L. Locsin Jr. agrees. "If we fail to deliver on the economy," he predicts, the administration will fall.

An American official says, however, that if by early next year the economy has begun to show "solid signs of perceptible improvement," the government has achieved a "minimal constitutional framework," local elections are allowed to consolidate the situation in the provinces and there is support for rebuilding the military, then Mrs. Aquino's future is bright.

That is an "unusually complicating and daunting" task, he says, although "the prospects (for success) are reasonable."

A diplomat says General Ramos "really wants to reprofessionalize the military after long years of frustration."

Enrile, on the other hand, while rejecting suggestions he is eyeing the presidency, is viewed as "a major part of the problem" and with "a certain residue of suspicion."

Some insiders say Enrile would find it difficult to take over because of the depth of Mrs. Aquino's popular support.

Mrs. Aquino herself is widely regarded as unlikely to run for a second six-year term, although few believe she will not complete the one to which she was elected Feb. 7.

The earliest national elections can take place is the end of this year, says Alvarez, and a more likely time is 1987.

Under a "heavyweight-vs.-light-weight" rule Mrs. Aquino has laid down, the cabinet and president must resign 90 days before a new election so incumbency cannot be exploited.

There is a lot of talk about election reform. Says Trade Minister Jose Concepcion Jr., "We didn't fight and die for democracy so scoundrels can get it."

Plans call for new voter registration with photographs, computerized lists and fingerprints.

Some scoundrels, however, appear to be gaining some political posts.

The wholesale replacement of local officials, called officers-in-charge (OICs), by Local Government Minister Aquilino Pimintel has created what all agree is "a hornet's nest," and some say he is being reined in after naming mayors like the driver of a friend's wife and what some Moslems call a recognized "terrorist" when he was acting under Marcos' orders.

Groups that think they have been shortchanged concede the new government has had to focus on the economy at the start.

Says Vice President Laurel, "You can't talk about what you are going to have for lunch when your house is on fire."

CONTINUING POPULARITY AQUINO'S BEST DEFENSE

(By Alan Emory)

MANILA.—Corazon C. Aquino is sitting on top of a political volcano.

Only her immense popularity keeps it from erupting.

The new Philippine president faces an insurgency composed partly of supporters of deposed President Ferdinand E. Marcos, whose allies pay demonstrators up to $7.50 a day to stand outside the United States Embassy in Manila, and Communists and resentful Moslems in the South, the latter two complaining they have been left out of influential positions in the new government.

The Moslems charge Mrs. Aquino listens to a "Jesuit Mafia," and while the Catholic Church has been a significant Aquino supporter, some key observers believe the role and influence of Cardinal Jaime Sin has been overblown.

The cardinal, according to American officials, was a "moral force for change," but never a church spokesman and no force behind the Aquino presidency, although other clergymen had been close advisers.

Stories of Marcos' hidden wealth have robbed his backers of much of their appeal. The Moslems account for only 7 percent of the population, and the government has a picture of their backing for Marcos and the feeling their opposition amounts to settling scores.

WILLING TO DEAL

Mrs. Aquino has already indicated a willingness to deal with leaders of the rebels and to call a cease-fire with the New People's Army, which claims a strength of 16,000 in the countryside in three-fifths of the provinces and has been engaged in ambushing reporters and soldiers alike.

Mrs. Aquino's scrapping of the legislature until a new constitution takes effect has unsettled some Filipinos.

"We don't know what constitution we are following," says Joel J. De Los Santos, a teacher of history and Islamics. He says, "cause-oriented groups" boycotted the Feb. 7 election because they doubted any substantial change would result.

The Communists have formed a shadow government of their own, which, they say, provides better services than the national regime.

"In the barrio," says De Los Santos, "if you lose your carabao (water buffalo) you don't go to the chief of police because he can't do anything about it. You go to the party, which will get it back or provide the money to buy a new carabo. They know which farmer's bitch has given birth to puppies. They help farmers plow the fields and market goods.

"The government has one agricultural technicial to handle several barrios."

The Communist concede President Aquino has aided human rights victims, and De Los Santos says—and Moslem leaders like Atty. Ebraham Rasul, the first member of his faith to serve in the Philippine Senate, agree—Filipinos have "a high tolerance level. So long as the government is not oppressive and does not abuse people we can tighten our belts."

De Los Santos admits Mrs. Aquino "doesn't have the intellectual arrogance of her predecessor."

FOES IN A HURRY

However, he adds, both extremes are in a hurry to put Mrs. Aquino down—the Marcos forces, because they are running out of time, the Communists because they think the transition period is the time to strike.

"When you walk very, very fast and you step on a thorn," he quotes a proverb as saying, "it goes deep into your foot."

Mrs. Aquino gets high marks for not naming any relatives to her administration: "a miracle in the Philippines," says one observer. "If she can do that she can resist almost any pressures."

One key move may be on land reform. There are plans to break down land holdings into small units, creating what Agrarian Reform Minister Heherson (Sonny) Alvarez calls "small-time countryside capitalists."

However, those displaced by reform and populist measures are upset, although they are still around.

At the Universtiy of the Philippines, normally the center of dissent, students recently cheered Mrs. Aquino despite a fairly hard-line speech in which she promised to beef up the military.

Marcos and his relatives are reported to have taken $10 billion out of the country, and Alvarez says, "You can't lose that without great economic dislocation."

ECONOMY A PRIORITY

Trade and Industry Minister Jose Concepcion Jr. says there are 3 million unemployed Filipinos and 800,000 more are joining the labor force every year. He says, "There is poverty all over the place."

The government is trying to take over businesses monopolized by Marcos cronies—"We're going to go after all of them," says Information Minister Teodor L. Locsin Jr., who likens them to "Al Capone"—to sell shares to the workers, lift bans on the export of coral, which Moslem divers collect in Zamboanga, and of copra and to set up regional economic councils and make sure sugar growers get a fair price.

Concepcion told a group of journalists organized by the Georgetown University Center for Strategic and International Studies that the United States should double the Philippines' share of the garment market and restore its sugar quota, even though, he concedes, sugar is "a sunset industry." The world sugar price is lower than that in the Philippines, and the answer, experts say, is diversification, not growing more sugar.

Although there are signs foreign capital is returning—the peso has remained stable at 20.5 to the dollar—and Filipinos with "one leg in Manila and one in Los Angeles" are considering leaving their California condominiums for home—the country, one diplomat says, "is basically broke. Traditional pump priming won't work."

Says Locsin, "We don't want to be ostracized by the international banking community" because of a staggering national debt.

"The country has been turned upside down," says one western expert. "The new government has been stripping the apparatus away. The next elections will be its battlefield."

REAGAN CALL TO MARCOS UPSETS FILIPINO LEADERS

(By Alan Emory)

MANILA.—President Reagan's assurances of support for the Aquino government last week were badly needed here.

Although members of the Philippine cabinet readily conceded, in recent interviews with a group of journalists under the auspices of the Georgetown University Center for Strategic and International Studies, that Mr. Reagan had a perfect right to confer with deposed President Ferdinand E. Marcos as an old friend, both they and Americans in Manila had been upset about the way the president handled his relations with the old and new heads of government here.

First the White House said Mr. Reagan would meet with Marcos in Honolulu, even before he had spoken to President Corazon C. Aquino.

Then the word was that Mr. Reagan would telephone Mrs. Aquino before he left

Washington and that in Honolulu he would phone Marcos, not meet with him personally.

The Reagan call to Mrs. Aquino was placed at 11:30 at night Manila time and lasted only three minutes. The Reagan call to Marcos lasted half a hour.

American officials here insisted that Mrs. Aquino did not feel "unsupported," but they were clearly uncomfortable with events preceding Mr. Reagan's meeting in Bali with Philippine Vice President Salvador H. (Doy) Laurel.

After that meeting, Laurel said he was satisfied Mr. Reagan recognized Mrs. Aquino as the legitimate president and was not encouraging Marcos' return.

In an earlier interview here, he had said that he did not approve of Mr. Reagan's talking to Marcos before he telephoned Mrs. Aquino because that might imply the United States still recognized Marcos.

What upset both Filipinos and Americans in Manila were the Reagan remarks that fraud had been committed by both sides in the presidential election campaign—that "has no basis" so far as their ticket was concerned, Laurel said, "dice were loaded"—and the implication in others that the American military bases in the Philippines were more important than Philippine democracy.

Laurel conveyed that unhappiness both to American Ambassador Stephen W. Bosworth and to Mr. Reagan later.

Information Minister Teodoro L. Locsin Jr. said Mr. Reagan was "within his rights to call an old friend and ally" and that the Aquino government had been more concerned about what Mr. Reagan said to Marcos than the call itself.

Locsin added, "No one can forget the tremendous support Mrs. Aquino got from the American government and the American people."

Laurel said in Bali last week that Mr. Reagan's remarks to him had "swept away the cobwebs of doubt" about Mr. Reagan's commitment to the Aquino regime.

Although Laurel told Mr. Reagan the Philippines needed more than the $150 million in extra aid the president has requested from Congress, Mrs. Aquino declined to answer that same question directly in an interview with reporters on April 25.

She said then that some of the funds dedicated to military aid to help fight the insurgents might be used for such economic purposes as buying bulldozers and extra equipment because the solution could not be "totally military."

Secretary of State George P. Shultz, who will visit Manila, has indicated unhappiness with the Laurel comments on the inadequacy of U.S. aid and with the Aquino government's reluctance to have the Marcoses leave U.S. jurisdiction.

Mrs. Aquino, however, feels that if they do enter another country that will be the end of the Philippines' hopes of recovering any of the $10 billion they are charged with having stolen.

She has offered amnesty to Marcos if some of that is returned.

Mr. MOYNIHAN. I thank the Chair.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

□ 1630

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PACKWOOD. Is there any amendment pending at the desk now?

The PRESIDING OFFICER. The Grassley-Dole amendment is the pending question.

Mr. PACKWOOD. Excuse me? I cannot hear the Chair.

The PRESIDING OFFICER. The Grassley-Dole amendment is the pending question.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the Grassley-Dole amendment be laid aside.

The PRESIDING OFFICER. Without objection, it is ordered.

Mr. MATSUNAGA addressed the Chair.

The PRESIDING OFFICER. The Senator from Hawaii.

AMENDMENT NO. 2149

(Purpose: To exclude from the definition of an unrelated trade or business qualified convention and trade show activities carried out by organizations described in section 501(c)(3) or 501(c)(4) of such Code, and to require private foundations subject to an excise tax imposed by section 4940 of the Internal Revenue Code of 1954 to pay such tax in a manner consistent with the corporate estimated tax payment rules)

Mr. MATSUNAGA. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Hawaii [Mr. MATSUNAGA] proposes an amendment numbered 2149.

Mr. MATSUNAGA. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment reads as follows:

At the end of title XVII, insert the following:

SEC. . SPECIAL RULE FOR EDUCATIONAL ACTIVITIES AT CONVENTION AND TRADE SHOWS.

(a) CERTAIN EDUCATIONAL ACTIVITIES TREATED AS CONVENTION AND TRADE SHOW ACTIVITIES.—Section 513(d)(3)(B) (relating to qualified convention and trade show activity) is amended by inserting after "industry in general" the following: "or to educate persons in attendance regarding new developments or products and services related to the exempt activities of the organization".

(b) QUALIFYING ORGANIZATIONS.—Section 513(d)(3)(C) (relating to qualifying organization) is amended by striking out "501(c)(5) or (6)" and inserting in lieu thereof "50(c) (3), (4), (5), or (6)" and by inserting before the period at the end thereof the following: "or which educates persons in attendance regarding new developments or products and services related to the exempt activities of the organization".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to activities in taxable years beginning after the date of enactment of this Act.

At the appropriate place in title V, insert the following:

SEC. . PRIVATE FOUNDATIONS SUBJECT TO ESTIMATED PAYMENT OF CERTAIN EXCISE TAXES.

(a) IN GENERAL.—Section 6754 (relating to installment payments of estimated income tax by corporations) is amended by inserting at the end thereof the following new subsection:

"(h) CERTAIN PRIVATE FOUNDATIONS.—With respect to any private foundation subject to the excise tax imposed by section 4940, this section and section 6655 shall apply, as provided by regulation, in a manner consistent with the provisions of such sections."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1986.

Mr. MATSUNAGA. Mr. President, my amendment would exclude from the definition of an "unrelated trade or business" trade show activities of organizations qualified under sections 501(c) (3) and (4) of the Tax Code. Section 501(c)(3) organizations include charitable organizations such as churches and schools and 501(c)(4) organizations include civic leagues or organizations operated exclusively for the promotion of social welfare. In short, my amendment would simplify and equalize the tax treatment of trade show income received by organizations qualified under sections 501(c) (3), (4), (5), and (6) of the code.

Mr. President, the Tax Reform Act of 1976 amended the code to provide that income derived from a qualified convention and trade show activity carried on by a 501(c)(5) or 501(c)(6) organization was not taxable. Section 501(c)(5) organizations include labor, agricultural, or horticultural organizations. Section 501(c)(6) organizations include business leagues and chamber of commerce. Sections 501 (c)(3) and (c)(4) organizations were inadvertently overlooked in the rush to complete congressional action on that act. My amendment would equalize the tax treatment for all such groups. The amendment would effectuate the substance of a colloquy on this floor in 1976 between Senator LONG, then chairman of the Finance Committee and Senator Talmadge, a member of that committee, when the underlying code section was adopted.

Because of the uncertainty in current law, many potential exhibitors are discouraged from attending sections 501 (c)(3) and (c)(4) trade shows. The disparity in tax treatment also causes severe problems where a trade show is jointly sponsored by a 501 (c)(6) organization and 501 (c)(3) or (c)(4) organization.

Mr. President, it is a well-known fact that charitable organizations find

great need to educate their members, and this amendment will permit those charitable organizations with limited means to sponsor conventions to achieve this goal. The amendment is supported by a number of 501(c)(3) and 501(c)(4) organizations, including the American College of Cardiology, the Secondary School Principals, the Girl Scouts and the Goodwill Industries. In providing equal tax treatment with regard to trade show income for 501(c) (3), (4), (5), and (6) organizations, a major administrative burden will be lifted from the IRS and the Tax Code will be made more equitable and fair.

Mr. President, as a revenue offset my amendment would require private foundations to make estimated payments on the excise tax that they pay on their net investment income in a manner consistent with the corporate estimated tax payment rules. Under current law private foundations other than certain operating foundations are subject to a 2-percent excise tax on their net investment income. The foundation's excise tax liability for the taxable year is not payable, however, until the foundation's information return for the year is due. Under my amendment the rules requiring estimated payments of corporate income taxes would apply to the private foundation excise tax on net investment income. In effect revenue neutrality would be effected.

I ask my colleagues support for this amendment which will simplify and clarify the tax law for charitable organizations.

I yield the floor.

Mr. PACKWOOD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. PACKWOOD. Mr. President, we agree with the amendment. I particularly appreciate the fact that the Senator found a way to finance this. It is a good amendment and ought to pass.

Mr. MATSUNAGA. I thank the distinguished chairman of the committee.

I move adoption of the amendment.

Mr. LONG. Mr. President, as the Senator so well stated, the amendment has been cleared on this side. We have no objection to the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Hawaii.

The amendment (No. 2149) was agreed to.

Mr. PACKWOOD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. MATSUNAGA. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MATSUNAGA. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

□ 1650

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2138

(Purpose: Providing that the period during which an individual is in the United States competing in a charitable sporting event shall not be taken into account in determining whether such individual is a resident alien)

Mr. PACKWOOD. Mr. President, I believe there is an amendment at the desk filed by Senator QUAYLE, amendment No. 2138. If I have the number correct, I would like to call it up for immediate consideration.

The PRESIDING OFFICER. It would take unanimous consent to temporarily set aside the Grassley-Dole amendment.

Mr. PACKWOOD. Mr. President, I ask unanimous consent to temporarily set aside the Grassley-Dole amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Oregon [Mr. PACKWOOD], for Mr. QUAYLE, proposes an amendment numbered 2138.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of subtitle H of title IX, insert the following new section:

SEC. . ATHLETES COMPETING IN CHARITABLE SPORTING EVENTS.

(a) IN GENERAL.—Section 7701(b)(4)(A) (defining exempt individual) is amended by striking "or" at the end of clause (ii), by striking the period at the end of clause (iii) and inserting ", or" and by adding after clause (iii) the following new clause:

"(iv) a professional athlete who is temporarily in the United States to compete in a charitable sports event described in section 274(k)(2)."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to periods after the date of the enactment of this Act.

Mr. PACKWOOD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PACKWOOD. Mr. President, this is an amendment relating to world professional athletes when they come to this country and play a charity sports tournament. At the moment, if you are in the United States over 180 days, you are taxed on your worldwide income. It is causing a number of athletes to be reluctant to come and play in our charity sports tournaments, where the money is raised for charity, because it counts toward the 180 days.

This amendment simply says when they are playing here in a charity sports tournament, the days they are playing will not be counted toward the 180 days. They are still taxed if they make any money in the tournament, but the days that they play do not count toward the 180 days.

Mr. LONG. Mr. President, I am not aware of any objection on this side of the aisle. I am prepared to support the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2138) was agreed to.

Mr. LONG. Mr. President, I move to reconsider the vote by which the amendment was agreed to and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LONG. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislation clerk proceeded to call the roll.

Mr. MELCHER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

AN INTERESTING DEAL

Mr. MELCHER. Mr. President, I want to make a short statement on a transaction among the Department of Justice, the Department of Agriculture, and a private entity known as Edwards Investments of Idaho, dealing with some land between Idaho and Montana; portions of the land lie in both States.

Today, the General Counsel's Office in the Department of Agriculture sent to the attorney in charge, region 1, in Missoula, MT, a memorandum dealing with two preliminary title opinions and related materials issued by the Attorney General of the United States relating to the interest in the lands held by Edwards Investments, an Idaho partnership [Edwards], along with two quitclaim deeds which the Justice Department prepared for lands in Idaho and Montana that Edwards had acquired from the now bankrupt Milwaukee Railroad. The Justice De-

partment is directing the Forest Service to process the quitclaim deeds and to set in motion payments of $3,708,900 to Edwards.

Small parcels of the land involved were actually acquired by Edwards in the normal manner of one property owner selling to another person land in which he held title. The General Counsel's Office in the Department of Agriculture had previously reviewed the appraised price that the Forest Service had arrived at, which was less than half a million dollars. The Justice Department, dealing with Edwards, offered something over $600,000 to acquire the land. Edwards refused and Congress approved in Public Law 99-190 (99 Stat. 1185), appropriating $4 million for this purpose. The Justice Department has now caved in to Edwards to settle the matter for the $3.7 million.

I believe the amount is excessive, and I believe the public should know why the final amount is almost 10 times the appraised price and 6 times the Justice Department's offer of settlement.

The land of the Milwaukee Railroad right-of-way across Federal land was used by them as an easement for the purpose of building and operating a railroad. The land was never sold to them, and while the right-of-way was for a public purpose since the land was never sold, once the right-of-way is no longer used for a railroad, the land ordinarily would be returned to the United States to be held, in this case, under the management of the U.S. Forest Service in the public interest. It was on this basis that the Forest Service made their appraisal of what Edwards actually owned. It's my judgment that this is what the law requires, and it is obvious that that is what the Justice Department believed when they made their offer of settlement to Edwards in the neighborhood of $600,000. Now the final settlement, much greater than that, is not only a bad precedent, but probably could not withstand the scrutiny of a Federal court if a case were brought against the Justice Department or the Department of Agriculture, or both, challenging the Justice Department decision.

There are questions that could be raised on behalf of Edwards concerning the value of bridges left intact, since the Forest Service appraisal only appraised the salvage value of the bridges after they were dismantled. In that regard, I asked the Forest Service if they had any plans for leaving any of the bridges intact for future use. That would entail some changes in Forest Service planning, but the Forest Service had been blocked by direction from the Justice Department not to proceed with any further planning until after the Justice Department had completed the transaction for the $3.7 million. It is my opinion that most of the bridges will have to be removed at the expense of the Forest Service, but that there is a possibility that one or more of the bridges will be left intact.

If the transaction goes through to final payment and issuance of the Treasury checks, we shall probably never know what the actual appraised value of the Edwards property should be, since the Forest Service is prevented by the Justice Department from making an appraisal of any of the bridges that might be useful to them. It is apparent that those that are not going to be used will have to be torn down at public expense.

I make this statement now prior to the final issuance of Treasury checks so that any of the public that are interested in this matter will be informed.

I believe the Justice Department is wrong on two counts—that is blocking Forest Service reappraisal of bridges to be left intact and used and, second, agreeing to the higher price of $3.7 million.

I ask unanimous consent that the memorandum and letters connected with this case be printed in the RECORD.

There being no objection, the materials were ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF AGRICULTURE,
OFFICE OF GENERAL COUNSEL,
Washington, DC, June 20, 1986.

Memorandum to: Lawrence M. Jakub, Attorney-in-Charge, Missoula, MT.

From: Joseph D. Cummings, Deputy Assistant General Counsel, Natural Resources Division.

Subject: R-1-Acquisition—Edwards Investment—Milwaukee Railroad Right-of-Way.

Attached are two preliminary title opinions, together with related materials, dated June 16, 1986, issued by the Attorney General relating to the interest in lands held by Edwards Investments, formerly owned by the Chicago, Milwaukee, St. Paul and Pacific Railroad Company, located in Idaho and Montana. One title opinion covers a portion of a right-of-way between Avery, Idaho, and the Idaho/Montana State line at St. Paul Pass, in Shoshone County, Idaho. The second title opinion covers a portion of a right-of-way between the Idaho/Montana State line at St. Paul Pass and St. Regis, Montana, in Mineral County, Montana. The interest in land in Idaho is being acquired for a consideration of $2,000,000.00, and the interest in land in Montana is being acquired for a consideration of $1,708,900.00.

The lands, which are being acquired pursuant to P.L. 99-190 (99 Stat. 1185), are more particularly described in two attached quitclaim deeds from the grantors to the United States, prepared by the Department of Justice.

The two title insurance policies and endorsements thereto for the interest in the Idaho lands were issued by First American Title Insurance Company and by Safeco Title Insurance Company of Idaho for the interest in the Montana lands.

True copies of the preliminary title opinions are being sent to the Regional Forester for the purpose of requesting the issuance from Treasury of the two checks. Richard Hull, Director of Lands, advises that the funds have been made available to the Region. Please contact Tom Morris, Attorney representing Edwards Investments, to arrange the appropriate closings with the title companies. Mr. Tom Morris's address is 722 Main Ave., St. Maries, Idaho. His telephone number is area code 208-245-2523. Mr. Marlin Lance of this office, 447-2223, is handling this matter.

When the subjections in the Attorney General's preliminary title opinions have been met, the deeds executed and recorded, the title insurance policies updated, and the purchase price paid, the two title assemblies should be returned for final approval of the Attorney General.

U.S. DEPARTMENT OF JUSTICE,
LAND AND NATURAL
RESOURCES DIVISION,
Washington, DC, June 16, 1986.

Hon. RICHARD E. LYNG,
Secretary of Agriculture,
Washington, DC.

MY DEAR MR. SECRETARY: An examination has been made of the title data relating to the land formerly occupied and used by the Chicago, Milwaukee, St. Paul and Pacific Railroad Company as portions of a railroad right-of-way between Avery, Idaho, and the Idaho/Montana state line at St. Paul Pass, in Shoshone County, Idaho. This land is to be acquired for a consideration of $2,000,000.00 by authority of existing legislation. The file number of this Department is 90-1-3-6791.

The land is described in the enclosed draft of quitclaim deed from John O. Edwards, Dorothy Edwards, his wife, and Edwards Investments, an Idaho partnership, to the United States of America.

The title insurance policy No. 26468, dated as of February 28, 1986, and endorsements to the policy, dated as of May 15, 1986, May 21, 1986, and June 4, 1986, were prepared by Safeco Title Insurance Company of Idaho and are satisfactory in form.

The title insurance policy and accompanying data disclose the title to be vested in:

United States of America, as to Parcels 1, 3, 4, 5, 8, 10, 12, 13, 14, 16, 17, 18, 19, 21, 22, 23, 24, 25, 26, 27 and 28; and

John O. Edwards and Dorothy Edwards, husband and wife, Individually and as Nominees for Edwards Investments, an Idaho Partnership, as to Parcels 2, 6, 7, 9, 11, 15 and 20, subject to the following objections:

1. All taxes and assessments.

2. Rights or claims of persons in possession, if any, not shown of record.

3. Mechanics' liens, if any, not shown of record.

4. Easements for roads, highways, railroads, pipelines and public utilities, if any, not shown of record.

5. The exception of all rights or interests arising from a survey map of the Chicago, Milwaukee and St. Paul Railroad Company line of constructed railroad approved June 17, 1918 by the Secretary of Interior pursuant to an Act of Congress March 3, 1899 (30 Stat. 1233) and an Act of Congress March 3, 1875 (18 Stat. 482). Affects Parcels 1, 3, 4, 5, 8, 10, 12, 13, 14, 16, 17, 18, 19, 21, 22, 23, 24, 25, 26, 27 and 28.

6. All right, title and interest of John O. Edwards, Dorothy Edwards and Edwards Investments, an Idaho partnership, as successors to the interest of the Chicago, Milwaukee, St. Paul and Pacific Railroad Company in the aforesaid line of railroad right of way. Affects Parcels 1, 3, 4, 5, 8, 10, 12, 13,

14, 16, 17, 18, 19, 21, 22, 23, 24, 25, 26, 27 and 28.

7. Patented or unpatented mining claims, if any, not shown of record in Shoshone County, Idaho.

8. An easement for a road right-of-way, in favor of Shoshone County, and recorded November 20, 1981, as Instrument No. 296757.

Prior to the consummation of this purchase, it should be definitely determined that the descriptions of the land in the deed to the United States and in the title insurance policy cover the same property. Additionally, the affidavit regarding the partnership status of Edwards Investments, dated May 10, 1986, should be updated to date of settlement; however, the 1986, should be updated to date of settlement; however, the updated affidavit need only be executed by one general partner.

When the above requirements and objections 1, 2, 3, 5, 6, and 7 have been satisfied and/or eliminated, and the enclosed draft of quitclaim deed from the above-named owners to the United States of America, duly executed and properly stamped, has been recorded, the purchase price has been paid, and a title insurance policy in approved form (A.L.T.A. U.S. Policy-1963) has been obtained showing the vesting of a valid title in the United States of America, and this Department has been informed in writing that objections 4 and 8 will not interfere with the contemplated use of the land, the title will be approved subject to the rights and easements referred to in objections 4 and 8.

The title insurance policy and related papers are enclosed.

Sincerely,

ATTORNEY GENERAL.
By F. HENRY HABICHT II,
Assistant Attorney General,
Land and Natural Resources Division.

U.S. DEPARTMENT OF JUSTICE,
LAND AND NATURAL
RESOURCES DIVISION,
Washington, DC, June 16, 1986.

Hon. RICHARD E. LYNG,
Secretary of Agriculture, Washington, DC.

MY DEAR MR. SECRETARY: An examination has been made of the title data relating to the land formerly occupied and used by the Chicago, Milwaukee, St. Paul and Pacific Railroad Company as portions of a railroad right-of-way between the Idaho/Montana state line at St. Paul Pass and St. Regis, Montana, in Mineral County, Montana. This land is to be acquired for a consideration of $1,708,900.00 by authority of existing legislation. The file number of this Department is 90-1-3-6791.

The land is described in the enclosed draft of quitclaim deed from John O. Edwards, Dorothy Edwards, his wife, and Edwards Investments, an Idaho partnership, to the United States of America.

The title insurance policy No. F15240, dated as of February 28, 1986, and endorsements to the policy, dated as of May 9, 1986, June 2, 1986, and June 3, 1986, were prepared by First American Title Insurance Company and are satisfactory in form.

The title insurance policy and accompanying data disclose the title to be vested in John O. Edwards and Dorothy Edwards, nominees for Edwards Investments, an Idaho partnership, subject to the following objections:

1. All taxes and assessments.

2. Rights or claims of persons in possession, if any, not shown of record.

3. Mechanics' liens, if any, not shown of record.

4. Easements for roads, highways, railroads, pipelines and public utilities, if any, not shown of record.

5. Any loss or claim arising from ambiguous legal description used in recorded instruments or rights and interest and encumbrances discovered from a correct legal description.

6. Right, title and interest of the United States of America as an abutting owner upon abandonment of railroad right of way.

7. Reversion to the United States of America according to the United States Department of the Interior easement dated August 28, 1908. Also, the United States Department of the Interior easement dated January 5, 1972 for transmission line.

8. Any duly located unpatented Lode or Placer Claims.

9. The effect of the terms and provisions of the Act of Congress dated March 3, 1875.

10. Railroad rights of way under the March 3, 1875 Act may be transferred to a successor Railroad; however, the fee or servient estate remains in the United States. When not used for railroad purposes or when abandoned by the grantee or lawful successors, they are relinquished, cancelled, or forfeited to the United States except as noted below.

a. Act of May 25, 1920 (43 U.S.C. 913): Provides for conveyance by land grant railroads of portions of rights-of-way to states, counties or municipalities to be used as public highways or streets.

b. Act of March 8, 1922 (43 U.S.C. 913): Provides for disposition of abandoned or forfeited railroad grants. This Act was passed to provide for reversion to the owner of the adjacent of underlying fee, and avoid isolated, unmanageable fractions and interests.

11. Right, title and interest of abutting owner Edith Mayo, who may have a right of reversion on abandonment of the railroad right of way.

Affects: The Southwest quarter of the Northeast quarter and the Southeast quarter (Government Lots) of Section 10. Township 18 North, Range 29 West. Right, title and interest of abutting owner State of Montana who may have a right of reversion on abandonment of the railroad right of way.

Affects: The Southeast quarter (Government Lots) of Section 10. Township 18 North, Range 29 West and the East one-half of the Northeast quarter of Section 31, Township 19 North, Range 29 West and the Southwest quarter of the Southwest quarter of Section 21, Township 18 North. Range 28 West.

Right, title and interest of abutting owner Fred R. Moore and subsequent contract buyers who may have a right of reversion on abandonment of the railroad right of way.

Affects: Government Lots 2, 5 and 6 of Section 4, Township 18 North, Range 29 West.

12. Reservations contained in deeds. Executed by: Anaconda Copper Mining Company. Recorded: November 11, 1911 and October 6, 1913. Book/Page: Book E of Deeds, at Page 576, 577 and Book E, Page 397 Parcel F.

Affects: Parcel F.

13. Relinquishment of right of access to state highway and of light, view and air, under terms of deed to the State of Montana. Recorded: November 20, 1973. Book/Page: Drawer 1 of Deeds, Card Nos. 1085, 1086 and 1087.

14. Reservations contained in deed. Executed by: Deer Creek Gold Mining and Milling Company. Recorded: April 22, 1908. Book/Page: Book G of Deeds, at Page 426. As follows: ". . . saves and reserves to itself, its successors and assigns all minerals whatsoever including coal, iron, natural gas, oil, etc. with the right of entry upon said lands above described, beneath the surface to explore, develop, mine and remove such minerals . . ."

Affects: 2.35 acres in the Northwest quarter of the Southeast quarter of Section 25, Township 19 North, Range 30 West.

15. Reservations contained in deed. Executed by: Mary Mitchell and E.M. Mitchell, her husband. Recorded: October 21, 1907. Book/Page: Book G of Deeds, at Page 357. As follows: "reserving from said land hereby conveyed any portions now belonging to the Northern Pacific Railway Company. . . "

Affects: East one-half of the Southeast quarter, of Section 4. Township 18 North, Range 29 West.

16. Reservations contained in deed. Executed by: Anaconda Copper Mining Company. Recorded: November 11, 1911. Book/Page: Book F of Deeds, at Page 574.

Affects: Parcel I.

17. Release of access rights granted by the Chicago, Milwaukee, St. Paul and Pacific Railroad Company to the State of Montana. Dated: May 20, 1976. Recorded: July 2, 1976. Book/Page: Drawer 1 of Miscellaneous Real Estate, Card No. 804-804D.

Affects: Parcel I (Sections 3, 10, 11, 14); Parcel J (Sections 13, 19, 24).

18. Reservations contained in deed. Executed by: Fred T. Sterling and L.W. Sterling, husband and wife and C.H. McLeod and Clara L. McLeod, husband and wife. Recorded: October 7, 1907. Book/Page: Book G of Deeds, at pages 330, 331. As follows: Reservations for mineral rights with the right to enter upon said lands beneath the surface to explore, develop, mine and remove such minerals.

19. Reservations contained in deed. Executed by: William J. Gerrity and Mary A. Gerrity, husband and wife. Recorded: October 21, 1907 and November 9, 1909. Book/Page: Book G of Deeds, at page 351 and Book E of Deeds, at page 281. As follows: "reserving, however, unto said parties of the first part, their heirs and assigns, all minerals whatsoever, including coal, iron, natural gas and oil, with the right of entry upon said lands beneath the surface to explore, develop, mine and remove such minerals, provided, however, that no such entry or work shall be made or carried on, upon or from the surface of any land hereby conveyed, and that such entry and work shall at all times be made and carried on subject to the right of the party of the second part to surface support of the lands hereby conveyed, for railroad purposes and in such manner as shall not injure, endanger or interfere with the construction, maintenance, use or operation of the railroad, or of any structures appurtenances, or appliances constructed, maintained operated upon the lands hereby conveyed. . . ."

20. Right, title and interest of the State of Montana by Instruments as set out below: For: State Highway. In favor of: State of Montana. Recorded: September 24, 1940 and November 17, 1969. Book/Page: Book 9 of Deeds, at Page 284 and Drawer 1 of Deeds, Card No. 306.

Affects: Parcel C (Section 8).

21. An easement affecting the portion of said premises and for the purpose stated herein, and incidental purposes. For: A Deed and Bill of Sale including a right-of-way to maintain, operate, repair and replace an electric transmission line. In favor of: The Montana Power Company. Recorded: August 1, 1974. Book/Page: Drawer 1 of Miscellaneous Real Estate, Card No. 1203-1203X.

Affects: Parcel B-1.

22. An easement affecting the portion of said premises and for the purpose stated herein, and incidental purposes. For: A perpetual right and easement to operate, maintain, repair and replace an electric transmission line, together with supporting structures, anchors, guys and associated relays and switches upon, along and across the right of way and tracts of the railroad as located. In favor of: The Montana Power Company. Recorded: December 2, 1981. Book/Page: Drawer 1 of Miscellaneous Real Estate, Card No. 1728-1728K.

Affects: Parcel B-1. Modified by Agreement. Recorded: September 2, 1982. Book/Page: Drawer 1 of Miscellaneous Real Estate Card No. 1858-1858E.

23. An easement affecting the portion of said premises and for the purpose stated herein, and incidental purposes. For: Pole and wire right of way easement to be 30 feet in width, being 15 feet each side of the electric lines. In favor of: The Montana Power Company. Recorded: March 12, 1982. Book/Page: Drawer 1 of Miscellaneous Real Estate, Card No. 1777-1777H.

Affects: Parcels B, E and F.

24. An easement affecting the portion of said premises and for the purpose stated herein, and incidental purposes. For: "to construct, operate and maintain its lines of Telephone and Telegraph, including the necessary poles, wires and fixtures . . ." In favor of: The Mountain States Telephone and Telegraph Co. Recorded: February 11, 1923 and February 11, 1925. Book/Page: Book 1 of Miscellaneous Real Estate, at Page 306 and at Page 308.

Affects: Parcels E, H, I, J, K, L.

25. An easement affecting the portion of said premises and for the purpose stated herein, and incidental purposes. For: " . . . to construct, operate and maintain its lines of telephone and telegraph, including the necessary poles, wires and fixtures . . ." In favor of: Postal Telegraph-Cable Company of America. Recorded: October 4, 1937 and July 1, 1937 and April 8, 1933. Book/Page: Book 2 of Miscellaneous Real Estate, at Page 191, and at Page 165, and Book 1 of Miscellaneous Real Estate, at Page 639.

Affects: Parcels E, H, I, J, K, L. (Exact location of said easement cannot be determined; said document also contains a reversionary clause).

26. An easement affecting the portion of said premises and for the purpose stated herein, and incidental purposes. For: " . . . to construct, operate and maintain its lines of telephone and telegraph, including the necessary poles, wires and fixtures . . ." In favor of: The Mountain States Telephone and Telegraph Company. Recorded: September 17, 1937. Book/Page: Book 2 of Miscellaneous Real Estate, at Page 189.

Affects: Parcel G. (Exact location of said easement cannot be determined; said document also contains a reversionary clause).

27. An easement affecting the portion of said premises and for the purpose stated herein, and incidental purposes. For: " . . . to construct, operate and maintain its lines of telephone and telegraph, including the necessary poles, wires and fixtures . . ." In favor of: The Mountain States Telephone and Telegraph Company. Recorded: March 1, 1923, April 16, 1923. Book/Page: Book 1 of Miscellaneous Real Estate, at Page 244 and at Page 252.

Affects: Parcel I. (Exact location of said easement cannot be determined).

28. An easement affecting the portion of said premises and for the purpose stated herein, and incidental purposes. For: State Highway. In favor of: State of Montana. Recorded: July 2, 1976. Book/Page: Drawer 1 of Miscellaneous Real Estate, Card No. 803-803C.

Affects: Parcel I (Sections 3, 14).

29. Agreement executed by and between the parties herein named upon the conditions therein provided. Between: Chicago, Milwaukee, St. Paul and Pacific Railroad Company and the State of Montana. Dated: July 26, 1951. Recorded: October 17, 1971. Book/Page: Book 3 of Miscellaneous Real Estate, at Page 272.

Providing: To the State of Montana the right to use portions of the right-of-way of the Railroad for the purpose of constructing and maintaining channel changes of the St. Regis River in connection with the reconstruction of U.S. Highway No. 10 between Saltese and Haugan, Montana.

30. Agreement executed by and between the parties herein named upon the conditions therein provided. Between: Chicago, Milwaukee, St. Paul and Pacific Railroad Company and the State of Montana. Dated: February 3, 1950. Recorded: March 23, 1950. Book/Page: Book 3 of Miscellaneous Real Estate, at Page 162. Providing: Grants a license to the State for the right-of-way of U.S. Highway No. 10.

Affects: Parcel I (Sections 10, 11, 14).

31. Agreement executed by and between the parties herein named upon the conditions therein provided. Between: Northern Pacific Railway Company and Chicago, Milwaukee, St. Paul and Pacific Railroad Company Dated: December 30, 1938. Recorded: January 19, 1939. Book/Page: Book 2 of Miscellaneous Real Estate, at Page 287. Providing: To change channel of the St. Regis River and to construct, maintain and operate a line of railroad.

Affects: Parcel I (Section 11) and Parcel J (Section 14).

32. Agreement executed by and between the parties herein named upon the conditions therein provided. Between: Chicago, Milwaukee, St. Paul and Pacific Railroad Company to the United States of America. Dated: September 4, 1956. Recorded: October 23, 1969. Book/Page: Drawer 1 of Miscellaneous Real Estate, Card No. 131. Providing: Grants a strip of land 60 feet wide for a crossing.

Affects: The Northeast quarter of the Northwest quarter of Section 24, Township 18 North, Range 29 West.

Prior to the consummation of this purchase, it should be definitely determined that the descriptions of the land in the deed to the United States and in the title insurance policy cover the same property. Additionally, the affidavit regarding the partnership status of Edwards Investments, dated May 10, 1986, should be updated to date of settlement; however, the updated affidavit need only be executed by one general partner.

When the above requirements and objections 1, 2, 3, 9, 10, 12 and 16 have been satisfied and/or eliminated and the enclosed draft of quitclaim deed from the above-named owners to the United States of America, duly executed and properly stamped, has been recorded, the purchase price has been paid, and a title insurance policy in approved form (A.L.T.A. U.S. Policy—1963) has been obtained showing the vesting of a valid title in the United States of America, and this Department has been informed in writing that objections 4, 5, 8, 11, 13, 14, 15, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31 and 32 will not interfere with the contemplated use of the land, the title will be approved subject to the rights and easements referred to in objections 4, 5, 8, 11, 13, 14, 15, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31 and 32.

The title insurance policy and related papers are enclosed.

Sincerely,

F. HENRY HABICHT II,
Assistant Attorney General, Land and Natural Resources Division.

Mr. MELCHER. Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. COCHRAN). Does any Senator seek recognition?

Mr. PACKWOOD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

TAX REFORM BILL OF 1986

The Senate continued with consideration of the bill.

AMENDMENT NO. 2148

Mr. DOLE. Mr. President, what is the pending business? Is it the Grassley amendment?

The PRESIDING OFFICER. The pending business is the Grassley amendment.

Mr. DOLE. I ask unanimous consent that it be temporarily laid aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2150

Mr. DOLE. Mr. President, I send an amendment to the desk in behalf of Senator GRASSLEY and myself and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE], for himself and Mr. GRASSLEY, proposes an amendment numbered 2150.

On page 1509, between lines 21 and 22 insert.

Paragraph (5) of section 202(d) is amended by adding at the end thereof new subparagraph (O) as follows—

(O) A project is described in this subparagraph if—

(i) a commitment letter was entered into with a financial institution on January 23, 1986 for the financing of the project,

(ii) the project involves inter-city communication links (including microwave and fiber optics communications systems and related property),

(iii) the project consists of communications links between

(a) Omaha, Nebraska and Council Bluffs, Iowa,

(b) Waterloo, Iowa and Sioux City, Iowa,

(c) Davenport, Iowa and Springfield, Illinois, and

(iv) the estimated cost of such project is approximately $13,000,000.

Mr. DOLE. Mr. President, the amendment that has just been set aside includes two provisions. One is the rule on truck lines and one is Teleconnect. We have had a discussion, at least I have had a discussion with the Senator from Ohio [Mr. METZENBAUM]. He indicated that he had no objection to the Teleconnect portion but he wanted to come back and take a look at the other portion. What I am suggesting is that we adopt the Teleconnect portion and I shall then modify the other provision, to remove Teleconnect, so that on Monday, the Grassley amendment with reference to the rule on truck lines will be pending.

□ 1710

At that time Senator METZENBAUM and Senator GRASSLEY could get together. I do not believe there is any question on this amendment.

The PRESIDING OFFICER. Is there any further debate?

Mr. PACKWOOD. This was the amendment I referred to earlier. We thought Teleconnect was part of United. It was an error on our part. It turns out we did not have the proper legal relationships between the two entities. We intended to cover both of them.

Mr. LONG. Mr. President, I have no objection to this amendment, and I know of no objection on this side.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 2150) was agreed to.

Mr. DOLE. I move to reconsider the vote by which the amendment was agreed to.

Mr. PACKWOOD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2148

Mr. DOLE. Mr. President, the pending business is then the Grassley amendment. I would ask that that amendment be modified by striking everything after line 5. In other words, everything after "in September 1985." Everything following that would be stricken.

The PRESIDING OFFICER. Is there objection? Without objection, it is so modified.

Mr. DOLE. I ask unanimous consent amendment No. 2148 be temporarily laid aside so the Senator from Alabama may offer his amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2151

Mr. HEFLIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. HEFLIN. Mr. President, I send to the desk an amendment on behalf of myself and Senator DENTON.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Alabama [Mr. HEFLIN] for himself and Mr. DENTON proposes an amendment numbered 2151.

Mr. HEFLIN. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Section 1518 of H.R. 3838, as reported by the Committee on Finance of the Senate, is amended by adding a new subsection (m) at the end thereof to read as follows:

(m) Limitation on Investment in Nonpurpose Obligations.—

(A) IN GENERAL.—Section 103(e)(6)(C) of the Internal Revenue Code of 1954 shall not apply to amounts in a fund described in subparagraph (B) [as that fund is in effect on the date of enactment]

(B) CERTAIN MANDATORY ACCUMULATIONS.—A fund is described in this subparagraph if—

(i) amounts must be paid into such fund under a constitutional provision, statute, or ordinance which was initially effective in 1901 and was last modified in 1919,

(ii) under such constitutional provision, statute, or ordinance, amounts paid into such fund (and receipts from investment of such fund) can be used only to pay debt service on general obligations of a governmental unit and for no other purpose, and

(iii) the size of the payments made into such fund is independent of the size of the outstanding issues (including the debt service thereon).

Mr. HEFLIN. Mr. President, beginning before the 1913 adoption of amendment XVI to the U.S. Constitution which authorized the U.S. Government to levy income taxes, the city of Birmingham, AL, established a sinking fund to provide a source of payment for debt service on its bonds. Pursuant to provisions of the Alabama Constitution that initially became effective in 1901 and that were last modified in 1919, the sources of income for the Birmingham Sinking Fund consist of (i) the proceeds of a property tax that has been levied continuously since 1901 and that is required to be applied solely for the payment of debt service on the city's bonds; and (ii) income derived from the investment of moneys accumulated in such sinking fund.

Moneys in the Birmingham Sinking Fund can be used only for the payment of debt service on the city's bonds, and when the annual requirements of such debt service are less than the annual tax receipts and investment income, applicable State law mandates the accumulation of the resulting surplus. No moneys can be withdrawn from the Birmingham Sinking Fund for the payment of any operating expenses of the city or for the payment of the cost of public facilities or other capital expenditures.

Although not legally required to do so, the city of Birmingham has historically managed its bonded debt so that the annual amounts required for debt service do not, for any extended period of time, materially exceed the annual amounts anticipated to be deposited in the Birmingham Sinking Fund. This debt management policy, in conjunction with the aforementioned legal requirement that no moneys may be withdrawn except for the payment of debt service, has resulted in a gradual increase in the balance of the Birmingham Sinking Fund, which now exceeds $35,000,000.

The existence of this sinking fund, its creation and preservation by provisions of the Alabama Constitution, and the historic debt management policy of the city resulting in the gradual increase of the sinking fund balance are all factors which together have been viewed very favorably by national rating services and have enabled the city, despite its share of the usual economic and demographic problems afflicting larger cities, to achieve a rating for its bonds of AA by Standard & Poor's Corp. and A–1 by Moody's Investor's Service. The extent to which these ratings are unusual and reflect the favorable impact of the Birmingham Sinking Fund becomes more striking when it is recognized that property taxes in Alabama are subject to constitutional limitations and cannot, as is the case in most other States, be increased without limit to the extent necessary to pay bonded debt.

The arbitrage rules of section 103(c) of the Internal Revenue Code of 1954, as amended, were enacted in 1969 to prevent State and local governments from making a profit at the expense of the Federal Treasury by issuing tax-exempt obligations and investing the proceeds thereof in higher yielding taxable obligations. Although section 103(c) did not initially interfere with the continued operation of the Birmingham Sinking Fund, that was not the case with regulations promulgated in 1978 to curb the growing use of the invested sinking fund, which was a financing technique that had appeared since 1969 and was proving to be a significant circumvention of the arbitrage rules. As originally proposed, the 1978 regulations would have interfered with the historic operation of the Birmingham Sinking Fund, but the city was able to persuade the Treasury Department that this sinking fund did not constitute the kind of open-ended abuse that the new regulations were intended to combat.

The final version of the new regulations contained a specific exemption for sinking funds that were created and managed under conditions corresponding to the Birmingham Sinking Fund. As was the case with the original 1978 regulations, the tax reform bill contains new provisions which significantly impair the continued operation of the Birmingham Sinking Fund, and the city desires the Treasury Department to approve modifications to the Tax Reform Act that will enable the Birmingham Sinking Fund to be continued under the same conditions that are now recognized in Treasury Regulation, section 1.103-14(d)(5).

Although probably unique in the country, the Birmingham Sinking Fund represents a frugal and prudent approach to municipal finance which has been practiced by the city without change for longer than the Federal income tax has existed. As mentioned above, the Treasury Department was persuaded in 1978 that the Birmingham Sinking Fund constituted a historical practice, which, given its unique and limited use, should not be upset by the then newly proposed regulations applicable to invested sinking funds.

I believe the preservation of Birmingham's historic sinking fund is justified by principles of comity which should exist between Federal tax law and long-established financial practices of State and local governments. The same considerations which persuaded the Treasury Department to leave the Birmingham Sinking Fund undisturbed in 1978 should be reflected in the Tax Reform Act now under consideration by the Senate.

Section 216 of the Alabama Constitution adopted in 1901, and amendment No. 8 to the Alabama Constitution adopted in 1919, authorize the city of Birmingham, among other municipalities to levy and collect a specified property tax which is required to be used exclusively for the payment of debt service on the city's bonds. Pursuant to these constitutional provisions, the city has for more than 85 years levied and collected such a property tax and has deposited the proceeds thereof in the Birmingham Sinking Fund, which is exclusively dedicated to the payment of the city's bonds. Since the tax proceeds deposited in the Birmingham Sinking Fund cannot be expended for any purpose other than debt service, a surplus has accumulated in the fund during years in which the tax revenues have exceeded debt service.

The cumulative surplus in the fund has been historically invested without restriction as to yield, and the relevant Alabama constitutional provisions have been uniformly interpreted by counsel as requiring the investment income from such surplus to be added to the fund and to be held, invested and applied according to the same rules that govern the tax proceeds constituting the primary source of the fund. As mentioned in the introduction to this memorandum, the legal requirements applicable to the Birmingham Sinking Fund, together with the prudent practice of the city in trying to limit annual debt service to amounts that do not exceed estimated annual additions to the fund, have cause the fund to grow over the years to a current balance in excess of $35,000,000.

The regulations originally proposed by the Treasury Department in 1978 concerning invested sinking funds would have included the Birmingham Sinking Fund in the general definition of a sinking fund. Although the full effect of the new regulations was never determined, it was clear that, without an exemption for the city, the issuance of any bonds after the effective date of such regulations would have required the city to limit the investment of a proportionate part of its sinking fund to a yield not exceeding the yield of such bonds. The Treasury Department relieved the city from the application of the new regulations by adding Treasury Regulation section 1.103-14(d)(5), which exempted a sinking fund held by a municipality from investment limitations if the fund met the following three conditions:

First, amounts must be paid into the fund under a constitutional provision, statute, or ordinance adopted before May 3, 1978;

Second, under the constitutional provision, statute, or ordinance, amounts paid into the fund—and receipts from investments of the fund—can be used only to pay debt service on the issuer's bonds and for no other purpose; and

Third, the size of the payment made into the fund is independent of the size of any outstanding bond issue—including the debt service thereon.

A brief consideration of these three conditions may illuminate the reasoning behind the 1978 decision of the Treasury Department regarding the Birmingham Sinking Fund and thereby justify continuation of the same exemption in the Tax Reform Act now under consideration.

The first condition, which requires that amounts must be paid into the fund under a constitutional provision, statute, or ordinance adopted before May 3, 1978, was obviously intended to distinguish between past practices and new financing techniques devised after the effective date of the sinking fund regulations. In 1978 the Treasury Department was concerned not to preclude the use of any legitimate municipal financing arrangements that had been developed and implemented just prior to the effective date of the new regulations. The conditions of a sinking fund complying with Treasury Regulation section 1.103-14(d)(5) have been frozen since May 3, 1978, and the same date should be used for any exemption included in the pending Tax Reform Act. The Birmingham Sinking Fund has been conducted in accordance with the regulations promulgated in 1978, and the city does not believe that the date of any exemption should be advanced to reflect developments in municipal finance occurring since that date.

The second condition, which requires that the fund be used only to pay debt service, reflects a rule governing the Birmingham Sinking Fund that, in relation to the laws of other States, is probably a unique feature of Alabama law. Generally when a State or local governmental unit accumulates a surplus of tax revenues after having discharged all current debt, such unit can expend the surplus for other purposes. By contrast, the city of Birmingham is required to sequester and retain such surplus for the payment of future debt service. Although the relevant Alabama law also applies to other municipalities in the State, no other municipality, to the knowledge of the city, has pursued a conservative debt management policy over the years which has resulted in the accumulation of a significant surplus balance in its sinking fund.

The third condition, which requires that there be no relationship between the amount of the tax revenues going into the sinking fund and the size of the outstanding bond issues, would appear to be aimed at the principal feature of the kind of invested sinking fund that the 1978 regulations were intended to eliminate. Generally, State and local governmental units wanted the advantage of a sinking fund as it applied to a particular bond issue, but if payment of that bond issue had been adequately secured, the laws in effect in other States prior to May 3, 1978, unlike the Alabama law in question, did not require additional funding of the sinking fund in a manner independent of the size of the related bond issue.

The Birmingham Sinking Fund satisfies the three conditions of Treasury Regulation section 1.103-14(d)(5). While these three condidtions do not seem overly restrictive, the city of Birmingham believes that it has the only sinking fund in the country which satisfies the three conditions. This belief is based on the cumulative impression gained from many different comments and inquiries made since 1978 by bond lawyers and underwriters from various parts of the country. If the Birmingham Sinking Fund is unique, it is probably because of the combined effect of the second and third conditions.

The tax reform bill contains a provision that will prevent the city of Bir-

mingham from continuing to operate its sinking fund in the historic manner that such fund has always been operated. The bill proposed by the act will limit the aggregate amount of gross proceeds of a bond issue of the city that can be invested in "nonpurpose investments"—all investments made with moneys in the Birmingham Sinking Fund are expected to constitute "nonpurpose investments" as defined in the act—with a yield higher than the yield of such bond issue to an amount that may not exceed 150 percent of the scheduled debt service on such bond issue for the current bond year.

The sinking fund regulations promulgated in 1978 were not intended to interfere with the historical financial practices of State and local governments. They were directed instead at new and clever techniques which departed from traditional practice in order to deliberately circumvent the arbitrage rules. In 1978 the Treasury Department recognized that the Birmingham Sinking Fund represented historical practice and that it was not appropriate to disrupt the city's reliance on this practice to enhance the credit rating assigned to its bonds. To resolve the difficulty created by the regulations proposed in 1978, the Treasury Department exempted the Birmingham Sinking Fund by adopting Treasury Regulation section 1.103-14(d)(5). Under the circumstances.

I believe that the substance of the 1978 exemption should be incorporated in the Tax Reform Act now under consideration by the U.S. Congress.

Mr. DENTON. Mr. President, I rise as a cosponsor of the amendment offered by my colleague from Alabama.

In 1913 before the adoption of the 16th amendment authorizing the United States Government to collect income taxes, the city of Birmingham, AL, established a sinking fund to provide a constant source of capital to pay the debt service on its bonds. The Alabama constitution provides that sources of income for the Birmingham Sinking Fund consist of the proceeds of a property tax that has been continuously collected since 1901. The Birmingham Sinking Fund money can be used only for debt service on the bonds and when the annual requirements of such debt service are less than the annual tax receipts and investment income, State law mandates the accumulation of the resulting surplus. No moneys can be withdrawn for the payment of any operating expenses of the city or for the payment of the cost of public facilities or other capital expenditures.

The arbitrage rules of section 103(c) of the Internal Revenue Code of 1954, as amended, were enacted in 1969 to prevent State and local governments from making a profit at the expense of the Federal Treasury by issuing tax-exempt obligations and investing the proceeds thereof in higher yielding taxable obligations. Although section 103(c) did not initially interfere with the continued operation of the Birmingham Sinking Fund, that was not the case with regulations promulgated in 1978. As originally proposed, the regulations would have interfered with the historic operation of the Birmingham Sinking Fund, but the city was able to persuade the Treasury Department that this sinking fund did not constitute the kind of open-ended abuse that the new regulations were intended to combat. The final version of the new regulations contained a specific exemption of sinking funds that were created and managed under conditions corresponding to the Birmingham Sinking Fund. As was the case with the original 1978 regulations, the Tax Reform Act of 1985 contains new arbitrage provisions which significantly impair the continued operation of the Birmingham Sinking Fund.

Between 1969 and 1978, in order to take advantage of the arbitrage rules, many State and local governmental units began to abandon the traditional practice of issuing long-term bonds with serial maturities for the specific purpose of circumventing the arbitrage rules. Instead of issuing bonds with serial maturities, part of the principal of which would be paid each year, a widespread practice developed of issuing term bonds, all or a substantial part of the principal of which would come due in a single installment 20 to 30 years later. For this 20- or 30-year period the revenues held in the sinking fund were required to be invested in specified taxable obligations—generally U.S. Treasury bonds—bearing a higher rate of interest than the tax-exempt issue in question and thereby enabling the issuer to earn substantial arbitrage profits.

The Treasury Department then proposed new regulations in 1978 to counteract the change in traditional financial practices of State and local governments represented by the invested sinking fund technique. The new regulations simply treated amounts held in an invested sinking fund for an issue of tax-exempt bonds as if they were proceeds of the bonds and were therefore subject to investment limitations. At the time, the Treasury Department expressly emphasized that the new regulations were not intended to interfere with traditional or customary financial practices and were, instead, aimed at sophisticated devices intended to circumvent the arbitrage rules.

The history of the Birmingham Sinking Fund is completely free of any intention to avoid or circumvent Federal arbitrage law. Although probably unique in the country, the Birmingham Sinking Fund represents a frugal and prudent approach to municipal finance which has been practiced by the city without change for longer than the Federal income tax has existed. The Treasury Department was persuaded in 1978 that the Birmingham Sinking Fund constituted a historical practice, which, given its unique and limited use, should not be upset by the then newly proposed regulations applicable to invested sinking funds. The city of Birmingham believes that the preservation of its historic sinking fund is justified by principles of comity which should exist between Federal tax law and long-established financial practices of State and local government. The same considerations which persuaded the Treasury Department to leave the Birmingham Sinking Fund undisturbed in 1978 should be reflected in the Tax Reform Act now under consideration by the U.S. Congress.

The Tax Reform Act of 1985 contains two distinct arbitrage provisions that will prevent the city of Birmingham from continuing to operate its sinking fund in the historic manner that such fund has always been operated. First, section 174(d) of the new Internal Revenue Code of 1985 proposed by the act will limit the aggregate amount of gross proceeds of a bond issue of the city that can be invested in "nonpurpose investments"—all investments made with moneys in the Birmingham Sinking Fund are expected to constitute "nonpurpose investment" as defined in the act—with a yield higher than the yield of such bond issue to an amount that may not exceed 150 percent of the scheduled debt service on such bond issue for the current bond year. Second, section 147(e) of the new Internal Revenue Code of 1985 will require the city to rebate to the U.S. Government any amount by which, first, the aggregate amount earned on all nonpurpose investments in which gross proceeds of a bond issue are invested exceeds, second, the aggregate amount that would have been earned on such nonpurpose investments if the yield thereon had been equal to the yield on such bond issue.

The sinking fund regulations promulgated in 1978 were not intended to interfere with the historical financial practices of State and local governments. They were directed instead at new and clever techniques which departed from traditional practice in order to deliberately circumvent the arbitrage rules. In 1978 the Treasury Department recognized that the Birmingham Sinking Fund represented historical practice and that it was not appropriate to disrupt the city's reliance on this practice to enhance the credit rating assigned to its bonds.

In circumstances such as this, where the right that the city of Birmingham seeks to preserve is unique and where

any financial loss to the U.S. Treasury is insignificant, the most fundamental notion of fairness argues for this amendment protecting the Birmingham Sinking Fund in the Tax Reform Act of 1985.

Mr. HEFLIN. Mr. President, this amendment has been looked at and has been agreed to, I believe, by the majority and the minority here as well as the Joint Committee on Taxation. It is my understanding that in the final draft the Treasury Department made suggestions and they now agree to the language of my amendment.

I do not believe there is any objection to the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PACKWOOD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. PACKWOOD. The amendment has been cleared on this side. We find it is in order and hope the Senate will, too.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. LONG. There is no objection on this side, Mr. President. I find no fault with the amendment and hope it will be agreed to.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 2151) was agreed to.

Mr. HEFLIN. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. LONG. Mr. President, I move to lay the motion on the table.

The motion to lay on the table was agreed to.

Mr. LONG. I suggest the absence of a quorum Mr. President.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that further proceedings under the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. DOLE. I ask there now be a period for the transaction of routine morning business not to extend beyond 5:30.

The PRESIDING OFFICER. Without objection, it is so ordered.

CALENDAR

Mr. DOLE. Mr. President, I inquire of the distinguished acting minority leader if he is in a position to pass the following calendar items: Calendar Nos. 680, 691, 692, 693, 694, and 695.

Mr. LONG. Mr. President, those items have been cleared.

Mr. DOLE. I thank the distinguished Senator.

I ask unanimous consent that the Senate proceed to the consideration of the measure just identified.

The PRESIDING OFFICER. Without objection, it is so ordered.

REQUIREMENT FOR CERTAIN MAIL TO BE CARRIED ON U.S.-FLAG VESSELS

The bill (S. 186) to further the development and maintenance of an adequate and well-balanced American merchant marine by requiring that certain mail of the United States be carried on vessels of United States registry, was considered, ordered to be engrossed for a third reading, read the third time, and passed; as follows:

S. 186

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That title IV of the Merchant Marine Act, 1936, as amended (46 App. U.S.C. 1141 et seq.), is amended by adding at the end thereof a new section to read as follows:

"SEC. 405. (a) The Postal Service shall contract for the use of vessels of United States registry to originate any international sea transportation of mail of the United States in any case in which the common carrier which operates or controls such vessel is enaged in the provision of regular transportation services to the destination specified by the Postal Service. The Postal Service shall not be required to enter into any such contract if no such vessels are available at the time the Postal Service seeks to arrange for the transportation of such mail, or if no such vessels can provide service sufficient to meet the actual needs of the Postal Service.

"(b) Any rate charged for the international sea transportation of mail of the United States under subsection (a) of this section shall comply with the provisions of the Shipping Act of 1984 (Public Law 98-237). Any such rate shall not be higher than rates charged by such carrier for transporting like goods for private persons.

"(c) Notwithstanding any other provision of law, in any case in which two or more common carriers seek to enter into a contract offered by the Postal Service under subsection (a) of this section, the Postal Service shall award such contract by competitive bidding and the duration of any such contract may not exceed one year.

"(d) The Postal Service shall not give any preference to any common carrier for the carriage of mail by sea based upon the basis of length, height, or width of cargo containers. Unless required by the physical handling limitations of the destination, no invitation for bids or request for proposals for the carriage of mail may specify the use of containers of any particular length, height, or width.

"(e) For purposes of this section, the term 'common carrier' means any common carrier, other than any ferryboat running on regular routes, engaged in the transportation by water of passengers or property between the United States (or any of its districts, territories, or possessions) and any foreign country, whether in the import or export trade, except that a cargo boat commonly referred to as an ocean tramp shall not be considered to be a common carrier.".

SEC. 2. Section 410(b) of title 39, United States Code, is amended by adding at the end thereof the following new paragraph:

"(9) Section 405 of the Merchant Marine Act, 1936, as amended.".

Mr. DOLE. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. LONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIONAL NEIGHBORHOOD CRIME WATCH DAY

The joint resolution (S.J. Res. 256) designating August 12, 1986, as "National Neighborhood Crime Watch Day", was considered, ordered to be engrossed for a third reading, read the third time and passed.

The preamble was agreed to.

The joint resolution, and the preamble, are as follows:

S.J. RES. 256

Whereas neighborhood crime is of continuing concern to the American people;

Whereas the fight against neighborhood crime requires people to work together in cooperation with law enforcement officials;

Whereas neighborhood crime watch organizations are effective at promoting awareness about, and the participation of volunteers in, crime prevention activities at the local level; and

Whereas citizens across America will soon take part in a "National Night Out", a unique crime prevention event which will demonstrate the importance and effectiveness of community participation in crime prevention efforts by having people spend the period from 8 to 9 o'clock postmeridian on August 12, 1986, with their neighbors in front of their homes: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That August 12, 1986, is designated as "National Neighborhood Crime Watch Day", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate programs, ceremonies, and activities.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. LONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIONAL FAMILY REUNION WEEKEND

The joint resolution (S.J. Res. 274) to designate the weekend of August 1, 1986, through August 3, 1986, as "National Family Reunion Weekend," was considered, ordered to be engrossed for a third reading, read the third time and passed.

The preamble was agreed to.

The joint resolution, and the preamble, are as follows:

S.J. RES. 274

Whereas the family is the foundation of a strong America;

Whereas the family nurtures the character and identity of individuals;

Whereas it is important to strengthen and preserve family spirit and unity;

Whereas tracing ancestral roots and creating a family tree can be an important discovery process;

Whereas family reunions of any size provide a strong sense of heritage and pride; and

Whereas family reunions bridge the gap between generations, bringing together the young and old alike to celebrate a family's rich past: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the weekend of August 1, 1986, through August 3, 1986, is designated as "National Family Reunion Weekend" and the President is authorized and requested to issue a proclamation calling upon the families of America to observe such weekend with appropriate activities.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. LONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIONAL DRUNK AND DRUGGED DRIVING AWARENESS WEEK

The joint resolution (S.J. Res. 362) to designate the week of December 14, 1986, through December 20, 1986, as "National Drunk and Drugged Driving Awareness Week," was considered, ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

The joint resolution, and the preamble, are as follows:

S.J. RES. 362

Whereas traffic accidents cause more violent deaths in the United States than any other cause, approximately forty-four thousand in 1985;

Whereas traffic accidents cause thousands of serious injuries in the United States each year;

Whereas about 54 per centum of drivers killed in single vehicle collisions and 38 per centum of all drivers fatally injured in 1985 had blood alcohol concentrations of 0.10 or above;

Whereas the United States Surgeon General has reported that life expectancy has risen for every age group over the past seventy-five years except for Americans fifteen to twenty-four years old, whose death rate, the leading cause of which is drunk driving, is higher now than it was twenty years ago;

Whereas the total societal cost of drunk driving has been estimated at more than $26,000,000,000 per year, which does not include the human suffering that can never be measured;

Whereas there are increasing reports of driving after drug use and accidents involving drivers who have used marijuana or other illegal drugs;

Whereas driving after the use of therapeutic drugs, either alone or in combination with alcohol, contrary to the advice of physician, pharmacist, or manufacturer, may create a safety hazard on the roads;

Whereas more research is needed on the effect of drugs either alone or in combination with alcohol, on driving ability and the incidence of traffic accidents;

Whereas an increased public awareness of the gravity of the problem of drugged driving may warn drug users to refrain from driving and may stimulate interest in increasing necessary research on the effect of drugs on driving ability and the incidence of traffic accidents;

Whereas the public, particularly through the work of citizens groups, is demanding a solution to the problem of drunk and drugged driving;

Whereas the Presidential Commission on Drunk Driving, appointed to heighten public awareness and stimulate the pursuit of solutions, provided vital recommendations for remedies for the problem of drunk driving;

Whereas the National Commission Against Drunk Driving was established to assist State and local governments and the private sector to implement these recommendations;

Whereas most States have appointed task forces to examine existing drunk driving programs and made recommendations for a renewed, comprehensive approach, and in many cases their recommendations are leading to enactment of new laws, along with stricter enforcement;

Whereas the best defense against the drunk or drugged driver is the use of safety belts and consistent safety belt usage by all drivers and passengers would save as many as ten thousand lives each year.

Whereas an increase in the public awareness of the problem of drunk and drugged driving may contribute to a change in society's attitude toward the drunk or drugged driver and help to sustain current efforts to develop comprehensive solutions at the State and local levels;

Whereas the Christmas and New Year holiday period, with more drivers on the roads and an increased number of social functions, is a particularly appropriate time to focus national attention on this critical problem;

Whereas designation of National Drunk and Drugged Driving Awareness week in each of the last four years stimulated many activities and programs by groups in both the private and public sectors aimed at curbing drunk and drugged driving in the high-risk Christmas and New Year holiday period and thereafter; and

Whereas the activities and programs during National Drunk and Drugged Driving Awareness Week have heightened the awareness of the American public to the danger of drunk and drugged driving: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of December 14, 1986, through December 20, 1986, is designated as "National Drunk and Drugged Driving Awareness Week" and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe that week with appropriate activities.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. LONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIONAL LITERACY DAY

The joint resolution (S.J. Res. 363) to designate July 2, 1986, as "National Literacy Day," was considered, ordered to be engrossed for a third reading, read the third time and passed.

The preamble was agreed to.

The joint resolution, and the preamble, are as follows:

S.J. RES. 363

Whereas literacy is a necessary tool for survival in society;

Whereas thirty-five million Americans today read at a level which is less than necessary for full survival needs;

Whereas there are twenty-five million adults in the United States who cannot read, whose resources are left untapped, and who are unable to offer their full contribution to society;

Whereas the annual cost of illiteracy to society has been estimated at $6,000,000,000;

Whereas there is a direct correlation between the number of illiterate adults unable to perform at the standard necessary for available employment and the money allocated to child welfare cost and unemployment compensation;

Whereas, although the largest number of adult illiterates is comprised of whites, in proportion to population size in percentages the number is higher for blacks and Hispanics, resulting in more economic and social discrimination problems;

Whereas the prison population represents the single highest concentration of adult illiteracy;

Whereas one million children between the ages of twelve and seventeen cannot read above a third grade level and 15 percent of recent graduates of urban high schools read at less than a sixth grade level;

Whereas 85 percent of the juveniles who appear in criminal court are functionally illiterate;

Whereas the 47 percent illiteracy rate among black youths is expected to increase to 50 percent by 1990;

Whereas one-half of the heads of households cannot read past the eighth grade level and one-third of mothers on welfare are functionally illiterate;

Whereas the federal, State, municipal, and private literacy programs have only been able to reach 4 percent of the total illiterate population;

Whereas it is vital to call attention to the problem of illiteracy, to help others understand the severity of the problem and the detrimental effects on society, and to reach people who are unaware of the free service and help available for illiteracy: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That July 2, 1986, is designated as "National Literacy Day" and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate ceremonies and activities.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. LONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIONAL NUCLEAR MEDICINE WEEK

The joint resolution (H.J. Res. 297) to designate the week beginning July 27, 1986, as "National Nuclear Medicine Week," was considered, ordered to a third reading, read the third time, and passed.

The preamble was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. LONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SEQUENTIAL REFERRAL OF CALENDAR NO. 561, S. 1655

Mr. DOLE. Mr. President, I ask unanimous consent that Calendar No. 561, S. 1655, as reported by the Committee on the Judiciary, be sequentially referred to the Committee on Finance for its consideration thereof, that any amendments reported by the Committee on Finance relating to the subject matter of S. 1655 shall be in order and that the period for consideration by the Committee on Finance shall not extend beyond the close of business on August 1, 1986, provided that, if S. 1655 is not reported by the Committee on Finance at such time, it shall be immediately discharged from further consideration thereof.

The PRESIDING OFFICER. Without objection, it is so ordered.

REPRESENTATION BY SENATE LEGAL COUNSEL

Mr. DOLE. Mr. President, I send a resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

The legislative clerk read as follows:

A resolution (S. Res. 433) to direct the Senate Legal Counsel to represent Senator ARMSTRONG and his staff, and to authorize the testimony of his State Director, in the case of State of Colorado and the City and County of Denver v. Mary Cunningham, et al.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. DOLE. Mr. President, this coming Monday morning in a municipal court in Denver, 22 defendants will be tried for trespass, disturbing the peace, loitering, and failure to obey police officers in a case arising out of a sit-in at Senator ARMSTRONG's State office just over 1 year ago. The Senator from Colorado's State director, John W. Jackson, has been subpoenaed by the prosecution to testify at that proceeding as to the events which gave rise to the arrests and charges in question.

This resolution would direct the Senate legal counsel to represent Senator ARMSTRONG and his staff in the matter—as well as authorize Mr. Jackson to appear as a witness. Since it has already been indicated by the defense that an appeal would likely be taken from any conviction, the authority would further carry over to all subsequent actions related to the same, June 12, 1985, incident.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 433) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 433

Whereas, in the case of *State of Colorado and the City and County of Denver* v. *Mary Cunningham, et al.* Crim. No. 5-040856, pending in the Denver County Court, Denver, Colorado, the prosecution has obtained a subpoena for the testimony of John W. Jackson, State Director for Senator William L. Armstrong;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. 288b(a) and 288c(a)(2) (1982), the Senate may direct its counsel to represent Members or employees of the Senate with respect to subpoenas issued to them in their official capacity;

Whereas, by the privileges of the United States Senate and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate can, by the judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that testimony of employees of the Senate is or may be needful for use in any court for the promotion of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges and rights of the Senate: Now, therefore, be it

Resolved, That the Senate Legal Counsel is directed to represent Senator William L. Armstrong, John W. Jackson, and any other staff assistant of Senator Armstrong who may be asked to testify in the case of *State of Colorado and the City and County of Denver* v. *Mary Cunningham, et al.* or subsequent related proceedings.

SEC. 2. That John W. Jackson and any other staff assistant of Senator Armstrong who may be asked is authorized to testify in the case of *State of Colorado and the City and County of Denver* v. *Mary Cunningham, et al.*, including any appeals thereto, except concerning matters which may be privileged.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. LONG. I move to lay the motion on the table.

The motion to lay on the table was agreed to.

H.R. 5036 TO BE HELD AT THE DESK

Mr. DOLE. Mr. President, I ask unanimous consent that once the Senate receives from the House, H.R. 5036, dealing with the arts and humanities, it be held at the desk pending further disposition.

The PRESIDING OFFICER. Without objection, it is so ordered.

H.R. 4841 TO BE HELD AT THE DESK

Mr. DOLE. Mr. President, I ask unanimous consent that once the Senate receives from the House, H.R. 4841, a bill to amend the Carl D. Perkins Vocational Education Act with respect to State allotments under the act, it be held at the desk pending further disposition.

The PRESIDING OFFICER. Without objection, it is so orderded.

REMOVAL OF INJUNCTION OF SECRECY—BERNE CONVENTION FOR PROTECTION OF LITERARY AND ARTISTIC WORKS (TREATY DOCUMENT NO. 99-27)

Mr. DOLE. Mr. President, as in executive session, I ask unanimous consent that the injunction of secrecy be removed from the Berne Convention for the Protection of Literary and Artistic Works (Treaty Document No. 99-27) transmitted to the Senate on June 18, 1986, by the President of the United States.

I also ask that the treaty be considered as having been read the first time; that it be referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed; and that the President's message be printed in the RECORD.

The PRESIDING OFFICER. Without objection, is is so ordered.

The President's message is as follows:

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to accession, I transmit herewith the Berne Convention for the Protection of Literary and Artistic Works. I also transmit, for the information of the Senate, the report of the Department of State with respect to the Convention.

The Convention obligates States party to the Convention to maintain high levels of protection for artistic works. The extent of protected works is broad, ranging from conventional works—such as books, motion pictures, and music—to new technological works including audio and video cassettes, and computer-related works. The Convention contains detailed provisions that specify minimum levels of protection to be provided by member countries.

Adherence to the Convention by the United States will demonstrate our commitment to improving international protection afforded intellectual property. When we are urging other countries to enhance copyright protection, the United States can no longer remain outside the Berne Union. It is, therefore, a matter of some urgency that the United States finally join the Berne Convention.

As indicated in the report of the Department of State, implementation of the Convention will require legislation. Until this legislation is enacted, the United States instrument of accession will not be deposited with the Director General of the World Intellectual Property Organization.

I recommend that the Senate give early and favorable consideration to the Convention and give its advice and consent to accession.

RONALD REAGAN.

THE WHITE HOUSE, *June 18, 1986.*

TAX REFORM ACT OF 1986

The Senate continued with the consideration of H.R. 3838.

Mr. DOLE. Mr. President, we are waiting for the distinguished Senator from New York to offer an amendment. It will be the last amendment of the day, as I understand from the managers of the bill.

AMENDMENT NO. 2152

(Purpose: Extend moratorium on the application of section 312(n) (6) to foreign corporations)

Mr. PACKWOOD. Mr. President, on behalf of Senator MOYNIHAN, I have an amendment that will extend the moratorium on the application of section 312(n)(6) to foreign corporations.

I send the amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the Grassley amendment is set aside and the clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Oregon [Mr. PACKWOOD] for Mr. MOYNIHAN proposes an amendment numbered 2152.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike subparagraph (E) on page 2503 on lines 8 through 12 and insert in lieu thereof the following:

(E) Paragraph (8) of section 312(n) (as redesignated by subparagraph (C)) is amended by striking out "paragraphs (5), (6), and (7)" and inserting in lieu thereof "paragraphs (4) and (6)," and by inserting the following language after "December 31, 1985": "and paragraph (5) shall apply only in the case of taxable years beginning after December 31, 1987."

At the appropriate place in the bill, insert the following new section:

SECTION . TREATMENT OF CERTAIN TECHNICAL PERSONNEL.

(a) IN GENERAL.—Section 530 of the Revenue Act of 1978 is amended by adding at the end thereof the following new subsection:

"(d) EXCEPTION.—This section shall not apply to services provided pursuant to an arrangement between such person and another organization whereby the individual provided services as an engineer designer drafter, computer programmer, systems analyst, or other similarly skilled worker engaged in a similar line of work for such other organization.

(b) EFFECTIVE DATE.—the amendment made by this section shall apply to services rendered after the date of enactment of this section

Mr. PACKWOOD. Mr. President, as I indicated just before I proposed the amendment, this is a 2-year extension of the moratorium.

(By request of Mr. PACKWOOD, the following statement was ordered to be printed in the RECORD.

● Mr. MOYNIHAN. Mr. President, I offer an amendment to ensure that a provision of our 1984 tax legislation, enacted to remedy a wholly domestic abuse, is not applied to produce unintended and deleterious consequences upon the ability of U.S. companies to compete effectively with their foreign counterparts in foreign markets.

In 1984, Congress amended the tax law to close a loophole that permitted distributions from domestic corporations made in anticipation of the receipt of installment sales payments to be treated by U.S. shareholders as a nontaxable return of capital. However, the 1984 amendment would have a perverse effect upon a domestic corporation's ability to claim the appropriate credit for foreign taxes paid by an overseas subsidiary upon the receipt of a dividend from the foreign company. For growing corporations that regularly make installment sales, the 1984 amendment would result in a permanent and constantly increasing loss of the foreign tax credit.

Congress delayed the application of the 1984 amendment to foreign corporations until January 1, 1986, to give the Treasury Department the opportunity to study the provision's effect in the foreign context. I understand that the Treasury has undertaken the analysis contemplated by the Congress, and has concluded that the 1984 amendment should not apply to the computation of the foreign tax credit.

If Congress fails to modify the 1984 amendment to preclude its application to the computation of the foreign tax credit, U.S. corporations with overseas subsidiary operations will have to take steps to avoid the increased U.S. tax burden. In the short term, U.S. corporations may postpone the repatriation of overseas subsidiary earnings, causing an actual reduction in U.S. tax revenues.

As a long-term solution, U.S. corporations could restructure overseas installment sales to qualify as leases under U.S. tax principles. This would make the U.S. companies less competitive then their foreign counterparts. Alternatively, corporations could accelerate foreign taxes by selling overseas installment contracts for cash, once again providing foreign companies with a competitive edge.

The House tax reform bill would extend the moratorium adopted in 1984 for 6 months beyond that bill's January 1, 1986, effective date. The rate reduction contemplated by the Finance Committee bill would not become fully effective until January 1, 1988. If the moratorium were extended through 1987, the economic impact of the 1984 amendment would be mitigated by the proposed U.S. tax rates, which, in most cases, would be lower than the presently prevailing foreign rates.

My purpose is to propose a noncontroversial and narrow amendment aimed at preventing unintended consequences for our domestic companies.

As a review-raising measure, this amendment further provides a rule governing the employee status of certain technical services personnel.

Under this amendment, the classification as employees for tax purposes of certain types of workers should be clarified. Technical services firms have retained engineers, designers, drafters, computer programmers, systems analysts, and other similarly skilled personnel to render services to clients of the technical services firms. Despite the fact that the Internal Revenue Service regards such personnel as employees of the technical services firms, some of such personnel are taking the position that they should be treated as independent contractors and as such the technical services firms would not be required to withhold income and employment taxes from their earnings. Under this amendment such persons would be employees of the technical services firms and their wages should be subject to withholding FICA and FUTA taxes.[1]

Technical services include services provided by engineers, designers, drafters, computer programmers, systems analysts, and other similarly skilled personnel who are engaged in similar lines of work. Generally, personnel providing such services are retained by the technical services firm for assignments for clients and may work for several clients during the course of their employment by the technical services firm, although they may work only for a single client. The treatment of this class of persons as

[1] Nothing in this amendment applies to persons who, under common law standards, are employees of clients of technical services firms.

employees will provide greater certainty and simplification in employment tax law and will result in greater tax compliance.

The purpose of this amendment—to treat technical service personnel as employees of technical services firms—cannot be avoided by claims that such personnel are independent contractors, sole proprietors, partners, or employees of personal service corporations controlled by such personnel. For example, an engineer retained by a technical services firm to provide services to an aircraft manufacturer cannot avoid treatment as an employee of the technical services firm by organizing a corporation which he controls and then claiming to provide his services as an employee of that corporation.

Nothing in this provision will affect the application of section 414(n), dealing with so-called employee leasing, to technical services personnel. That provision, to the extent applicable under current law, would continue to apply in addition to this provision.

This provision will be effective upon the date of enactment.

The PRESIDING OFFICER. Is there any debate of the amendment?

Mr. LONG. Mr. President, we are familiar with the amendment on this side and pleased that the chairman of the committee has offered this on behalf of the Senator from New York [Mr. MOYNIHAN]. The Senator was required to leave but he said if we wanted to agree to this amendment he would be happy for us to do so.

I am happy to cooperate. I am pleased to vote for the amendment.

The PRESIDING OFFICER. If there will be no further debate, the question is on agreeing to the amendment.

The amendment (No. 2152) was agreed to.

Mr. PACKWOOD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LONG. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PLANT FACILITY TRANSITIONAL RULE

Mr. STEVENS. Mr. President, it is my understanding that the Finance Committee's bill includes a transitional rule for plant facilities where construction has commenced and more than 50 percent of the cost was incurred or committed prior to January 1, 1986. The committee report states that construction is not considered to have commenced until work has actually begun on the site of the plant facility except in situations whether the plant facility is not to be located on land and, therefore, the initial construction work must be done elsewhere.

I would like to ask the distinguished chairman of the Finance Committee whether the committee also intends that transitional relief may be available in very limited situations where construction of a plant facility to be located on land cannot begin on site because economic and other logistical considerations would make such construction unfeasible.

Mr. PACKWOOD. Mr. President, I would be glad to answer the question of my colleague from Alaska. It is the intention of the committee that transitional relief may be available to particular plant facility projects to be located on land in very limited circumstances where the initial construction work takes place off site because economic and logistical considerations would make such construction unfeasible.

To illustrate this point with an example relevant to Alaska, the construction of plant facilities to be installed on Alaska's North Slope must take place outside Alaska because of the prohibitive costs of onsite construction and other conditions, including weather, which make it entirely impractical to construct on site. These considerations are equivalent to the considerations that led the committee to decide to waive the onsite construction requirement for plant facilities not to be located on land. Therefore, it is the intent of the committee that the North Slope plant facilities, which are being constructed in accordance with the other stipulations of the transitional rule, should be granted transitional relief.

Mr. STEVENS. Mr. President, I thank my colleague from Oregon for his clarification of this point.

REAL ESTATE BROKER REPORTING PROVISION

Mr. MATTINGLY. Mr. President, I am pleased to rise in support of the amendment offered yesterday by the distinguished Senator from New Hampshire. As a cosponsor, I am extremely concerned about the impact the provision in the Senate Finance Committee bill would have on real estate transactions.

Current law does not provide for any type of reporting mechanism by which the Internal Revenue Service must be notified when real property is sold and when a capital gain should be taxed. However, many believe some real estate sellers fail to report their property sales, thereby avoiding payment of the required capital gains tax.

The bill before us places the requirement of reporting on the real estate broker. This burden is unjustly placed. The broker simply locates a buyer for the seller. Closing agents have filing requirements, whereas brokers do not. Why should a party that is not accustomed to reporting and filing procedures be required to carry out such a task? To do so, in my view, would certainly be less efficient and effective. I see no reason why this requirement should exist.

Another concern of mine, Mr. President, is the paperwork burden that will be imposed on real estate brokers by this provision. Many of these brokers are small businessmen and businesswomen. They do not need this additional paperwork. We in Congress should not be making it more difficult for these types of businesses.

Therefore, I believe this revenue-neutral amendment—which has been approved by both sides—will satisfactorily address the problem. With it, we can reject this notion of placing such a burden on real estate brokers, yet still adequately satisfy the need to have a way to report capital sales. I am pleased we have been able to work out this problem.

PUBLIC EMPLOYEE PENSIONS

● Mr. D'AMATO. Mr. President, I rise today to discuss a matter of great concern to the millions of State, local, and Federal employees who are counting on their pension benefits.

Approximately 19 million individuals participate in a pension plan sponsored by a public entity. Under current law, retired public employees are permitted to get back all previously taxed contributions to their pension programs before being subjected once again to Federal taxes. That recovery rule allows the average Federal retiree to draw benefits for 18 months before having their pension benefits taxed.

The House bill would end the 3-year recovery rule after July 1. The Senate Finance Committee plan now being debated would phase out the recovery period over 2 years, beginning in January 1988.

This provision will radically change the years of financial planning by some 19 million Americans. We are about to subject public employees at all levels of government to significant changes in their retirement plans. I feel that this proposed change is absolutely wrong.

This is not an esoteric issue. It has a dramatic impact on postal workers, teachers, and all other public employees. In New York there are over 160,000 active Federal employees counting on 18 months of tax-free retirement benefits. The same holds true for the over 76,000 postal workers in my home State. I feel strongly that these individuals should not have the rules governing their retirement benefits changed in the middle of the game.

Mr. President, any change in the retirement plans of even one person must be carefully considered. Changes cannot be made in a cavalier manner. Planning for retirement begins years before people actually leave the work force. Millions of public employees have planned for their retirement based on current law.

Mr. President, it is my hope that the House-Senate conference committee

on the tax bill will retain current law treatment of public employees' pension benefits. I feel that this is the fairest way to treat the millions of dedicated public employees in our Nation.●

Mr. DENTON. Mr. President, when the United States is described as a world superpower, the statement is typically a reference to military superiority. Actually, the superpower label could just as accurately be applied to U.S.-agricultural activity.

Last year, for example, United States farmers harvested almost twice as much grain as did the Soviet Union, but they did so using half the acreage. In other words, the United States gathered 81 million more tons of grain on 138 million fewer acres. What is most incredible about the comparison, however, is the fact that the Soviet production was achieved with a work force of 27 million, while the superior United States production required a scant 3.7 million workers.

Achievements like that demonstrate the truly remarkable productive efficiency and spirit of the American farmer. It is also testimony to the fact that the U.S. Government does support policies that promote American agriculture.

I believe, therefore, that in considering the Tax Reform Act of 1986, we have a special duty to our farmers to preserve life on the farm—particularly the small family farm—as a legacy that can be passed from generation to generation.

I recently conducted a telephone survey of farmers in my State and found that, while overall they support this tax bill, they are worried about some of the provisions that, although well-intended, would further handicap their livelihood and be unfair to our Nation's most productive sector.

One of the provisions that would hit the farmers in Alabama the hardest is the elimination of income averaging. Over the past 5 years, Alabama farmers have been faced with severe drought, tornadoes, blight, and early freezes. It seems, at times, as if nothing worse can happen to the farmers of our State. The weather is something that a farmer really does not like to talk about because it tears at his soul and he can't do anything about it. So I think it is very unfair not to take the unpredictable obstacles facing farmers into consideration—special consideration.

I know one farmer whose income in 1981 was $60,000. In 1982, when Alabama had heavy flooding, his income dropped to $40,000. In 1983, this same farmer's farm experienced severe drought, and he lost his cotton crop, dropping his income to $30,000; in 1984, there were tornadoes, which wiped out his pecan crop, dropping is income further to $18,000.

In 1985, it cost him more to take his soybeans out of the field than he could make at market. Now, in 1986, the ground is so hard from the effects of the current drought that he cannot get his peanuts into the ground. If he does not get a crop into the ground soon he will be facing bankrupty.

This farmer is not someone who has mismanaged his farm. In 1986, he was honored as one of the best farm managers in our State. It is obvious that this farmer needs income averaging; it will probably be the only thing that saves him from going bankrupt.

Another provision farmers in my State are concerned about is the elimination of the capital gains treatment. Even though I do not like it, I can live with the elimination of the exclusion for short-term investments of 6 months, 9 months or a year, but we should keep capital gains for lifetime investments that take years to nurture, like timber. A farmer is lucky if he can cut two stands of timber in his lifetime, since it takes from 25 to 40 years to grow. Timber growers need capital gains treatment.

Some farmers are in such desperate straits that they are having to sell off portions of third generation farms to pay off the tax collector and the loan officer. To tax someone who is having to sell off part of a family farm at ordinary income rates is unfair, forcing families to sell off even more land.

So we should try to find a way to take care of long-term farm capital like land and timber.

I was very glad to see that the Finance Committee bill liberalizes the depreciation schedule for farmers. I am particularly pleased that up to $10,000 of machinery and equipment may be written off in the year of purchase.

I was also very relieved to see the Finance Committee address the farm debt crisis. No longer will a farmer, just climbing out of debt, be subject to new taxes just when he is getting back on his feet. When a farmer has been in bankruptcy and has had prior debt released, that release would not be counted as income in subsequent years.

It is my hope that the conferees will keep history in mind. History tells us that when America's farms are strong and healthy the rest of America's economy has historically flourished.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by one of his secretaries.

EXECUTIVE MESSAGE REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MEASURES HELD AT THE DESK

The following bills were ordered held at the desk by unanimous consent pending further disposition:

H.R. 4841. An act to amend the Carl D. Perkins Vocational Education Act with respect to State allotments under the Act.

H.R. 5036. An act to make technical corrections to the National Foundation on the Arts and the Humanities Act of 1965.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. D'AMATO (for himself and Mr. MATTINGLY):

S. 2580. A bill to amend the Controlled Substances Act and the Controlled Substances Import and Export Act to impose increased criminal penalties on cocaine dealers; to the Committee on the Judiciary.

By Mr. SPECTER:

S. 2581. A bill to increase the obligation limitations for Federal-aid highways and highway safety construction programs; to the Committee on Environment and Public Works.

By Mr. PRYOR (for himself, Mr. MELCHER, Mr. GRASSLEY, Mr. HEINZ, Mr. BUMPERS, and Mr. BOREN):

S. 2582. A bill to provide for the deduction of points when refinancing a home; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. CHILES:

S. Res. 432. A resolution expressing the sense of the Senate that certain prisoners in Cuba be granted asylum; to the Commttee on the Judiciary.

By Mr. DOLE (for himself and Mr. BYRD):

S. Res. 433. A resolution to direct the Senate Legal Counsel to represent Senator Armstrong and his staff, and to authorize the testimony of his Staff Director, in the case of State of Colorado and the City and County of Denver v. Mary Cunningham, et al; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. D'AMATO (for himself and Mr. MATTINGLY):

S. 2580. A bill to amend the Controlled Substances Act and the Controlled Substances Import and Export Act to impose increased criminal pen-

alties on cocaine dealers; to the Commttee on the Judiciary.

CRACK AND COCAINE MEANINGFUL PENALTIES ACT

● Mr. D'AMATO. Mr. President, I rise today to introduce the Crack and Cocaine Meaningful Penalties Act. I am pleased to announce that the Department of Justice enthusiastically supports the thrust of the bill.

Mr. President, it is time that we begin to punish cocaine and crack dealers as severely a we punish heroin dealers. Currently, cocaine dealers are not subject to the maximum penalties available under 21 U.S.C. 841(b) and 960(b) unless they are in trafficking in, importing, or exporting at least a kilogram (1,000 grams or 2.2 lbs.) of cocaine. This is 10 times as high as the amount of heroin required to merit a maximum sentence, yet cocaine is no less dangerous a narcotic.

This amount is unreasonably high. It offers those who prey on our children and our communities a safe haven that they simply do not deserve. When 4 or 5 million Americans are regular users of cocaine, when 1 of every 6 high school seniors has tried cocaine at least once, and when an epidemic of crack abuse is causing violent crime to increase dramatically in communities across this country, it is time to stop treating cocaine as anything less than an urgent drug law enforcement priority. It is time to make the punishment fit the crime.

Crack—or rock, as it is also known—is smokeable freebase cocaine. It sells for $5 to $20 a dose. The current issue of Newsweek (June 16, 1986) describes the severity of the crack crisis in its cover story on "Crack and Crime:"

> The crack trade operates like a guerrilla insurgency and makes an infuriatingly elusive target for police. Dealers—"ounce men," as they are known in L.A.—organize small cells of pushers, couriers, and lookouts from the ghetto's legion of unemployed teenagers. . . . Police raids on "crack houses" typically recover too little cocaine to impress prosecutors or the courts . . . Rock and crack represent a quantum leap in the addictive properties of cocaine . . . Sold in tiny chips that give the user a 5- to 20-minute high, crack often is purer than sniffable cocaine . . . Crack addicts are likely to be paranoid and highly active.

The director of the 1-800-COCAINE Hotline is quoted in the Newsweek article as saying:

> 33 percent of all coke users who call are talking about crack addiction. The explosion has taken place in the past six to nine months. It's a true epidemic.

According to information compiled by the hotline, crack and rock are widely available in 17 cities: Atlanta, Boston, Chicago, Denver, Detroit, Houston, Los Angeles, Miami, Newark, New Orleans, New York, Philadelphia, Phoenix, San Francisco, Seattle, St. Louis, and the Washington-Baltimore area. It is widely available in 25 States.

Our laws are seriously out-of-date as applied to cocaine, and absurdly so as applied to crack, or freebase cocaine. An average dose of crack is only 65 miligrams. Under current law, therefore, a crack dealer cannot be subject to the maximum prison term unless he is caught with a kilogram, or more than 15,000 doses, of crack. This simply never happens. As a result, those who traffic in one of the most addictive substances known to man—a substance that is spreading a new crime wave through our cities and towns and our rural and suburban areas—escape the severe punishment they deserve.

The bill I am introducing today recognizes how inadequate these current penalties are. It set 100 grams of cocaine and I gram of crack, instead of 1,000 grams, as the threshhold amounts that will trigger imposition of the maximum penalties under 21 U.S.C. 841 and 960.

The Crack and Cocaine Meaningful Penalties Act subjects the first-time offender, who traffics in 100 grams of cocaine or 1 gram of crack to a maximum prison term of 20 years and a fine of $250,000. It subjects the repeat offender to up to 40 years and a $500,000 fine.

The offenses involved are those covered by 21 U.S.C. 841(a) and 960(a), including, among others: the manufacture, distribution, possession with intent to manufacture and distribute, importation, and exportation of cocaine and freebase cocaine.

This bill creates, for the very first time, a special penalty applicable to crack. Because crack is so potent, drug dealers need to carry much smaller quantities of crack than of cocaine powder. By treating 1,000 grams of feebase cocaine no more seriously than 1,000 grams of cocaine powder, which is far less powerful than freebase, current law provides a loophole that actually encourages drug dealers to sell the more deadly and addictive substance, and lets them sell thousands of doses without facing the maximum penalty possible.

As the explosive spread of cocaine and crack made clear, we are failing to meet one of the essential purposes of our criminal law, the deterrence of crime. With penalties that drug dealers laugh at, this plague can only get worse.

I urge my colleagues to cosponsor the Crack and Cocaine Meaningful Penalties Act to close the loopholes that serve only to protect society's enemies—the drug dealers who operate today with impunity. Let's let the purveyors of these deadly substances know how tough we are willing to be.

Mr. President, I ask unanimous consent that the full text of my legislation be printed in the RECORD at the conclusion of my remarks.

Thank you, Mr. President.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2580

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION. 1. SHORT TITLE.

This Act may be cited as the "Crack and Cocaine Meaningful Penalties Act".

SEC. 2. AMENDMENT TO THE CONTROLLED SUBSTANCES ACT.

Section 401(b)(1)(A) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A)) is amended—

(1) in clause (i) by striking out beginning with "other than a narcotic drug" through and including subclause (III) and inserting in lieu thereof a semicolon; and

(2) by striking out clause (ii) and inserting in lieu thereof the following:

"(ii) 1 gram or more of a base form of cocaine;".

SEC. 3. AMENDMENT TO THE CONTROLLED SUBSTANCES IMPORT AND EXPORT ACT.

Section 1010(b)(1) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(1)) is amended—

(1) in subparagraph (A) by striking out beginning with "other than a narcotic drug" through and including clause (iii) and inserting in lieu thereof a semicolon; and

(2) by striking out subparagraph (B) and inserting in lieu thereof the following:

"(B) 1 gram or more of a base form of cocaine;".●

● Mr. MATTINGLY. Mr. President, I am pleased to join with my distinguished colleague from New York, Senator D'AMATO, in sponsoring the "Crack and Cocaine Meaningful Penalties Act." As my colleague has described, the legislation recognizes the real hazard that cocaine and smokeable freebase cocaine, known on the streets as "crack" and "rock," pose to the citizens of our Nation and provides for appropriate penalties for those who traffic in these dangerous substances.

Crack has been known to law enforcement officials in cities throughout this country for less than a year, yet, according to a report in the June 16, 1986, issue of Newsweek, it "has suddenly become America's fastest-growing drug epidemic and potentially its most serious. It is cheap, plentiful, and intensely addictive, a drug whose potential for social disruption and individual tragedy is comparable only to heroin." That is a sobering statement, Mr. President, and one which demands our attention and action.

Because crack is indeed a new phenomenon, our current Criminal Code does not deal with it effectively. This measure would create a special penalty which would apply to this "special" substance by providing for the maximum prison term of 20 years and a fine of $250,000 for the first-time offender who traffics in 1 gram—the equivalent of more than 15 doses—of crack. The penalty for repeat offenders, of course, would be greater.

Mr. President, those who traffic in crack and cocaine lure their customers, many of whom are children, into what often become a life of imprisonment to the drug, or worse, even death. I believe it is entirely appropriate, and long overdue, that we get tough with the cocaine and crack dealer.

The June 8 edition of the New York Times carried a story entitled "Crack Addiction Spreads Among the Middle Class." Accompanying that story was a photograph which displayed a placard reading "Crack Down on Crack." That, Mr. President, is what this legislation would do.

Today we know crack is available in 17 cities, among them Atlanta and New York, major municipalities in my and my colleague's home States; and crack is available in 25 States. Mr. President, it is too late for some of the citizens who live there. Their lives have already been damaged through addiction or through the distressing wave of crime which accompanies crack. But it is not too late for others, and they deserve protection.

We hope that the penalties which this bill would impose will create an effective deterrent against the spread of crack to other cities and States. Those who are not deterred would be punished in a manner more fitting their crime than is provided for under current law.

The stakes are high, Mr. President. They are the welfare, protection, and very lives of our citizens, particularly our children, and the safety and tranquility of our communities. The American people understand this. In fact, a Wall Street Journal/NBC News poll conducted earlier this month shows that a greater number of those questioned believed that it was more important for the Federal Government to combat drug abuse than to reform the Tax Code. I ask unanimous consent that the article entitled "Fight Against Drug Abuse Illustrates the Limits of Politics as Legislative Solutions Prove Elusive" in which it appeared in today's Wall Street Journal be printed in the RECORD at the conclusion of my remarks.

In closing, I urge my colleagues to respond to the concerns of our citizens and to lend their support and cosponsorship to this important measure.●

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, June 20, 1986]

FIGHT AGAINST DRUG ABUSE ILLUSTRATES THE LIMITS OF POLITICS AS LEGISLATIVE SOLUTIONS PROVE ELUSIVE

(By David Shribman)

ATHENS, GA.—Sen. Mack Mattingly had just finished a speech in northeast Georgia and now, during the long ride back to Atlanta, he was musing about the sort of issues politicians talk about when they run for reelection.

There's the successful flight against inflation, he was saying, and the progress in bringing down interest rates. And then, as the lights of Atlanta became visible in the distance, the Georgia Republican leaned over in the car and said, "But the biggest cloud out there is the problem of drugs."

Indeed, the most recent Wall Street Journal/NBC News poll indicates that while the public believes the drug problem is less urgent than reducing the federal budget deficit and unemployment and fighting terrorism, it regards curbing drug abuse as an important challenge—a higher priority, in fact, than overhauling the tax system. "It should be the most significant issue that we face," says Mr. Mattingly, who is seeking a second term this November.

But though Rep. William Gray (D., Pa.) calls it "an epidemic on the level of the medieval European plague and the No. 1 problem we face" and Sen. Dan Quayle (R., Ind.) recognizes it is "one of the biggest issues in America's families," the fight against drug abuse illuminates the limits of politics.

USUAL TOOLS OF POLITICS DON'T WORK

Political figures have come to recognize that the usual tools of politics—speeches, bargaining, commissions, legislation—are poorly suited to this challenge. "It's not the kind of problem that we usually deal with," says Sen. Quayle. "If the drug problem could be resolved by spending $1 billion, we'd spend $1 billion. But it's not one of those kinds of problems."

Moreover, politicians, who are at ease discoursing on traditional themes like the economy and foreign affairs are simply uncomfortable talking about drug abuse.

"This kind of issue spooks us," says Senate Republican Whip Alan Simpson of Wyoming. "We're embarrassed about this issue—not embarrassed to talk about it, but embarrassed that we don't know anything about these things."

To be sure, Congress has taken some steps to help win the battle against drug abuse. It has passed legislation allowing the military to help local law-enforcement officials, stiffened penalties for drug-dealing offenses, tied U.S. foreign aid to drug-eradication efforts in nations that have exported narcotics here, and upgraded law-enforcement equipment so that the U.S. isn't, as Sen. Paula Hawkins (R., Fla.) is fond of saying, "outspent, outgunned and outmanned" by the drug underground.

CONGRESS FAILS TO RESPOND

But lawmakers acknowledge that Congress has failed to respond creatively to the drug issue and that traditional politics hasn't been supple enough to find answers to the problem or, just as important, to make it easier for others to address the issue.

In the past, conventional liberals have sought to address this issue by attacking the social problems that lead to drug abuse while conservatives have sought to increase penalties against drug traffickers. But the problem hasn't lent itself to such facile responses, particularly in an age when drugs have won wide acceptance as a recreational activity among people of all classes.

"You can make speeches and denounce drug abuse—nobody will criticize you for that—but to get hold of this issue in a meaningful way is almost impossible for folks like us," says Sen. Paul Simon (D., Ill.). "There are clearly limits to what we can do, and that's frustrating."

Many experts in drug abuse believe that political figures have acquitted themselves especially poorly in this important national issue.

'UTTER IGNORAMUSES' ABOUT DRUGS

"Most of the leading policy makers and legislators are utter ignoramuses when it comes to the drug issue," says Arnold Trebach, a drug-policy expert at the American University in Washington. Mark Kleiman, a research fellow in criminal justice at Harvard's Kennedy School of Government and a former Reagan administraton Justice Department official, adds: "Politicians love to talk about this issue, but they talk about it in a way that is totally remote from any attempt to make sensible drug policy."

Mr. Trebach contends that the political arena is the worst place to debate and fashion a strategy for combatting drug abuse. "You've got people who are embarrassed to talk about anything that creates personal pressure, you've got enormous ignorance on the part of Congress and you have pure political expedience—the willingness to exploit this issue. It's a recipe for social disaster."

In the past year many Republican legislators, eager to ensure that the GOP continues to control the Senate, have deferred on the drug issue to Sen. Hawkins, who is running for reelection from Florida, where the connection between drugs and crime has given the question great urgency. "She knows," says on Republican senator, "what she has to target to get reelected."

At the same time, others believe the issue offers great political opportunity to office-seekers beyond Florida's borders. "This should be a major political issue," says Judith Richards Hope, a member of the President's Commission on Organized Crime and a top domestic adviser in the Ford administration. "It affects productivity in every segment of our society, it is a major cancer that has got to be rooted out. It is the fuel . . . of organized crime. It's as serious a problem as we have in this country."

STRIKING A RESPONSIVE CHORD

Sen. William Armstrong of Colorado, a potential GOP presidential candidate, has suggested that the drug issue might even make a foundation for a national campaign. "A person who raises this as an issue will find that it strikes a responsive chord," he says. "It is a legitimate issue. It cuts clear across other political and demographic barriers. This is a concern in the barrio and in the WASP suburbs."

But many lawmakers believe that the public has lost faith in politicians' ability to address this problem. "We can answer questions about Contra aid, tax reform, South Africa and the farm crisis, but I always wonder why we have such a hard time getting to the nub of this issue." says Sen. Nancy Kassebaum (R., Kan.), who was active in anti-drug work in Wichita before she went to Washington. "People don't think we can help this problem. They don't look to the Senate."

Congress hasn't rushed to address the issue, mainly because the questions involved offer political peril: How widely should drug testing be applied? What level of drug abuse is "acceptable"? Would legalizing certain milder "recreational" drugs such as marijuana ease the problem?

"Politicians like to portray it as a war to the death with drugs," says Mr. Kleiman, the Harvard criminal-justice expert. "So they can't even think about new ways to attack this problem because they're afraid of being seen as an opponent of current policies and thus soft on drugs."

By Mr. SPECTER:

S. 2581. A bill to increase the obligation limitations for Federal-aid highways and highway safety construction programs; to the Committee on Environment and Public Works.

INCREASED FUNDING FOR HIGHWAY IMPROVEMENT

● Mr. SPECTER. Mr. President, I am introducing legislation which will authorize increased funding for much needed highway projects across this country and in my own State of Pennsylvania, without raising taxes. My bill will do this by drawing down the approximately $10 billion unobligated balance that currently exists in the highway trust fund and preventing the even greater buildup of unobligated funds that would occur without this action.

The cause for this buildup of a highway trust fund reserve and a partial cause of the shortfall in Federal highway dollars to the States is that the States are not allowed to obligate at a rate that equals their apportionment. My home State is an example of this. Pennsylvania's federally mandated obligation ceiling versus its apportionment was only 93 cents on the dollar in 1985 and is 84 cents on the dollar in 1986. Pennsylvania now reportedly has a $460 million unobligated balance because of these low mandated obligation ceilings.

To remedy this situation, obligation ceilings would be set at $14.2 billion per year in my bill for fiscal year 1987 through fiscal year 1990. This would reduce the outstanding obligation in the highway trust fund to $2.2 billion by the end of fiscal year 1990 which represents a reasonable reserve against unexpected obligations or revenue variances. The $10 billion reserve is entirely unreasonable.

Comparing the obligation ceiling in my bill to the ceiling proposed in the public highway authorization bill, S. 2405, shows the increased spending allowed by my bill:

[In billions of dollars]

Fiscal year—	Proposed obligation ceiling under my bill	Proposed ceiling under S. 2405	Increased spending allowed by my bill
1987	14.20	12.35	1.85
1988	14.20	12.35	1.85
1989	14.20	12.35	1.85
1990	14.20	12.35	1.85
Total	56.8	49.40	7.4

Pennsylvania's share of increase [1]

Fiscal year:	*Millions*
1987	$81.4
1988	81.4
1989	81.4
1990	81.4
Total	325.6

[1] Approximately 4.4 percent of U.S. total.

The need for these funds is great in this country. The Nation has invested over $100 billion in the Interstate Highway System which is 86 percent complete. It would be unconscionable to let this investment fall into disrepair, but that is what is occurring.

My home State of Pennsylvania is illustrative. Highway funding is simply not keeping pace with requirements in Pennsylvania. The State estimates a requirement of $1.4 billion for interstate restoration between now and 1990. Given present funding projections, Pennsylvania could only mount $500 million against this shortfall. For example, Interstate 80, which is a vital link between the East and the West, requires $50 million per year to finance necessary reconstruction, but receives only $15 million per year through the regular apportionment of Federal funds for interstate restoration. The expenditures that I am proposing will greatly help this situation.

Also very important is the significant stimulative economic effect that the expenditure of these funds will have. A study by the Pennsylvania Economy League found that 104 jobs are supported for every $1 million of highway construction. The increase in the obligation ceiling, and, therefore, spending authorization, under my bill would support approximately 187,200 additional jobs nationwide and 8,500 jobs in Pennsylvania annually.

Increases in obligation ceilings as I have proposed also will utilize tremendous amounts of steel. The U.S. Department of Transportation issued a bulletin which states that for every million dollars of highway dollars spent across the United States, on average, 111 tons of steel are utilized. Based on the increase that I have suggested, steel consumption should increase by approximately 200,000 tons per year.

I am also offering an amendment to S. 2405 pertaining to the "Buy America" clause in that bill. The "Buy America" clause under the 1982 act essentially required that 100 percent of the steel used in projects funded with Federal highway funds be domestically produced. A clause in S. 2405 would exempt contracts under $500,000 from being subject to the "Buy America" clause. I must stand against this attempt to subvert the "Buy America" provision. If this clause had been in effect in fiscal year 1985, approximately 3,000 or 48 percent of the 6,275 contracts awarded would have ben exempt from "Buy America". This suggests an attack on the hard-hit steel industry that is unacceptable to this Senator.

It is apparent based on the facts that I have stated that my bill is crucial for meeting the States' needs for highway funds and will produce many additional benefits in steel production and jobs. My amendment regarding the "Buy America" clause will assure that American dollars go to support American jobs. Both actions are of great importance to the Nation and to my State of Pennsylvania.●

By Mr. PRYOR (for himself, Mr. MELCHER, Mr. GRASSLEY, Mr. HEINZ, Mr. BUMPERS, and Mr. BOREN):

S. 2582. A bill to provide for the deduction of points when refinancing a home; to the Committee on Finance.

DEDUCTION OF POINTS ON HOME REFINANCING

● Mr. PRYOR. Mr. President, today I'm introducing legislation to allow taxpayers to deduct points they pay when they refinance their homes. This bill is necessary in order to overturn a recent announcement by the Internal Revenue Service [IRS] that under section 461(g)(2) of the Tax Code points paid to refinance a home aren't deductible in the year paid.

The bill I'm introducing today, Mr. President, overrules IRS news release IR-86-68, issued on May 13, 1986. The legislation does this by amending section 461(g)(2) of the Internal Revenue Code to insert the word "refinancing" in the statute. The effect of this change, if adopted, would be to allow points paid on refinancing a home to be deducted in the year paid, just like points paid for the initial purchase of a home, or points paid to borrow money to improve a home.

Mr. President, we all know there have been thousands of taxpayers across the country who've taken the opportunity of lower mortgage rates to refinance their homes. The well-established business practice in virtually all parts of the country is that points are paid when homes are bought, and refinanced. Section 461(g)(2) of the Code was put into the law in 1976 in recognition of the fact that points are usually paid.

Mr. President, the ability to deduct mortgage interest is one of the most sacred parts of the Tax Code in this country. There've never been any serious proposals made that would restrict the ability of taxpayers to take this deduction. Points are interest paid on the front-end of the transaction, and are an acceptable deduction by virtue of the action of the Congress in the 1976 legislation. To say that simply because you refinance your home—to take advantage of lower interest rates—points paid on the refinancing of the home aren't deductible, seems to me to be the wrong result for the taxpayers of this country. Men and women aren't refinancing their homes simply to have something to do. They are doing this to take advantage of lower interest rates, which means lower mortgage payments each month. Unless we amend the Tax Code to allow points on refinancing to be deductible, we will have broken a commitment to each homeowner in this country.

I urge my colleagues to join me in this effort, and I hope we can move this bill through the legislative process in a very prompt manner.

Mr. President, I ask unanimous consent that a copy of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2582

Be it enacted by the State and House of Representatives of the United States of America in Congress assembled, That (a) Section 461(g)(2) of the Internal Revenue Code is amended by inserting after the word "purchase" the following additional language—", re-financing,"

(b) EFFECTIVE DATE.—The amendment made by this Act shall be effective for taxable years beginning on or after January 1, 1986.●

ADDITIONAL COSPONSORS

S. 489

At the request of Mr. SASSER, the name of the Senator from Arizona [Mr. DECONCINI] was added as a cosponsor of S. 489, a bill to amend chapter 171 of title 28, United States Code, to allow members of the Armed Forces to sue the United States for damages for certain injuries caused by improper medical care provided during peacetime.

S. 961

At the request of Mr. SARBANES, the names of the Senator from Massachusetts [Mr. KENNEDY], and the Senator from North Dakota [Mr. BURDICK] were added as cosponsors of S. 961, a bill to authorize the Alpha Phi Alpha Fraternity to establish a memorial to Martin Luther King, Jr. in the District of Columbia.

S. 1121

At the request of Mr. ANDREWS, the name of the Senator from Tennessee [Mr. GORE] was added as a cosponsor of S. 1121, a bill to amend the United States Grain Standards Act to encourage foreign agricultural trade by improving the quality of grain shipped from U.S. export elevator facilities.

S. 1793

At the request of Mr. KENNEDY, the name of the Senator from Ohio [Mr. METZENBAUM] was added as a cosponsor of S. 1793, a bill to amend the Public Health Service Act to establish a grant program to develop improved systems of caring for medical technology dependent children in the home, and for other purposes.

S. 2133

At the request of Mr. KASTEN, the name of the Senator from Alabama [Mr. HEFLIN] was added as a cosponsor of S. 2133, a bill to amend the Social Security Act to safeguard the integrity of the Social Security trust funds by ensuring prudent investment practices.

S. 2209

At the request of Mr. KERRY, his name was added as a cosponsor of S. 2209, a bill to make permanent and improve the provisions of section 1619 of the Social Security Act, which authorizes the continued payment of SSI benefits to individuals who work despite severe medical impairment; to amend such Act to require concurrent notification of eligibility for SSI and medicaid benefits and notification to certain disabled SSI recipients of their potential eligibility for benefits under such section 1619; to provide for a GAO study of the effects of such section's work incentive provisions; and for other purposes.

S. 2288

At the request of Mr. CHILES, the name of the Senator from Oklahoma [Mr. BOREN] was added as a cosponsor of S. 2288, a bill to amend title XIX of the Social Security Act to permit States the option of providing prenatal, delivery, and postpartum care to low-income pregnant women and of providing medical assistance to low-income infants under one year of age.

S. 2343

At the request of Mr. DURENBERGER, the name of the Senator from Utah [Mr. HATCH] was added as a cosponsor of S. 2343, a bill to authorize the provision of foreign assistance for agricultural activities in Nicaragua.

S. 2403

At the request of Mr. DURENBERGER, the name of the Senator from California [Mr. CRANSTON] was added as a cosponsor of S. 2403, a bill to amend the Internal Revenue Code of 1954 to assure access to health insurance, and for other purposes.

S. 2476

At the request of Mr. HUMPHREY, the names of the Senator from Mississippi [Mr. STENNIS] and the Senator from Alabama [Mr. DENTON] were added as cosponsors of S. 2476, a bill to amend part E of title IV of the Social Security Act to require States to furnish, and the Secretary of Health and Human Services to publish, statistical data relating to the incidence of adoptions.

S. 2494

At the request of Mr. BRADLEY, the name of the Senator from Rhode Island [Mr. CHAFEE] was added as a cosponsor of S. 2494, a bill to amend the title XVIII of the Social Security Act to modify the limitations on payment for home health services under the Medicare Program to conform regulations; to assure that all legitimate costs are taken into account in calculating such limitations; to provide affected parties an opportunity to comment on revisions in Medicare policies; and to require discharge planning procedures.

S. 2532

At the request of Mr. COCHRAN, the name of the Senator from Mississippi [Mr. STENNIS] was added as a cosponsor of S. 2532, a bill to amend the Wild and Scenic Rivers Act by designating a segment of the Black Creek in Mississippi as a component of the National Wild and Scenic Rivers System.

S. 2545

At the request of Mr. MOYNIHAN, his name was added as a cosponsor of S. 2545, a bill to place a moratorium on the relocation of Navajo and Hopi Indians under Public Law 93-531, and for other purposes.

S. 2573

At the request of Mr. HEINZ, the name of the Senator from Michigan [Mr. RIEGLE] was added as a cosponsor of S. 2573, a bill to amend the Disaster Relief Act of 1974 to provide more effective assistance to disaster and emergency victims.

S. 2574

At the request of Mr. HEINZ, the name of the Senator from Michigan [Mr. RIEGLE] was added as a cosponsor of S. 2574, a bill to amend the Disaster Relief Act of 1974 to provide more effective assistance to disaster and emergency victims.

SENATE JOINT RESOLUTION 345

At the request of Mr. DOLE, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of Senate Joint Resolution 345, joint resolution to designate the week beginning November 9, 1986, as "National Reye's Syndrome Awareness Week."

SENATE JOINT RESOLUTION 359

At the request of Mr. NICKLES, the name of the Senator from Rhode Island [Mr. PELL] was added as a cosponsor of Senate Joint Resolution 359, joint resolution to designate March 17, 1987, as "National China-Burma-India Veterans Association Day."

SENATE JOINT RESOLUTION 360

At the request of Mr. GARN, the names of the Senator from Alabama [Mr. DENTON], the Senator from California [Mr. CRANSTON], the Senator from California [Mr. WILSON], the Senator from Connecticut [Mr. DODD], the Senator from Georgia [Mr. MATTINGLY], the Senator from Georgia [Mr. NUNN], the Senator from Hawaii [Mr. INOUYE], the Senator from Idaho [Mr. MCCLURE], the Senator from Indiana [Mr. QUAYLE], the Senator from Indiana [Mr. LUGAR], the Senator from Louisiana [Mr. JOHNSTON], the Senator from Maine [Mr. COHEN], the Senator from Michigan [Mr. RIEGLE], the Senator from Mississippi [Mr. STENNIS], the Senator from Missouri [Mr. EAGLETON], the Senator from Nebraska [Mr. ZORINSKY], the Senator from Nevada [Mr. HECHT], the Senator from Nevada [Mr. LAXALT], the Senator

from New Jersey [Mr. LAUTENBERG], the Senator from New York [Mr. MOYNIHAN], the Senator from Oklahoma [Mr. NICKLES], the Senator from Rhode Island [Mr. CHAFEE], the Senator from Rhode Island [Mr. PELL], the Senator from South Carolina [Mr. HOLLINGS], the Senator from South Carolina [Mr. THURMOND], the Senator from South Dakota [Mr. ABDNOR], the Senator from Tennessee [Mr. SASSER], the Senator from Texas [Mr. BENTSEN], the Senator from Texas [Mr. GRAMM], the Senator from Utah [Mr. HATCH], and the Senator from Virginia [Mr. TRIBLE] were added as cosponsors of Senate Joint Resolution 360, joint resolution to designate July 20, 1986, as "Space Exploration Day."

SENATE JOINT RESOLUTION 362

At the request of Mr. HUMPHREY, the name of the Senator from New Mexico [Mr. DOMENICI] was added as a cosponsor of Senate Joint Resolution 362, a joint resolution to designate the week of December 14, 1986, through December 20, 1986, as "National Drunk Driving Awareness Week."

SENATE JOINT RESOLUTION 363

At the request of Mr. LAUTENBERG, the names of the Senator from Tennessee [Mr. GORE], and the Senator from Alabama [Mr. DENTON] were added as cosponsors of Senate Joint Resolution 363, a joint resolution to designate July 2, 1986, as "National Literacy Day."

SENATE CONCURRENT RESOLUTION 148

At the request of Mr. SYMMS, the name of the Senator from Illinois [Mr. DIXON] was added as a cosponsor of Senate Concurrent Resolution 148, a concurrent resolution expressing the sense of Congress concerning the nuclear disaster at Chernobyl in the Soviet Union.

SENATE CONCURRENT RESOLUTION 151

At the request of Mr. BYRD, the names of the Senator from Montana [Mr. MELCHER], the Senator from Hawaii [Mr. INOUYE], the Senator from Rhode Island [Mr. PELL], the Senator from Delaware [Mr. BIDEN], and the Senator from New Hampshire [Mr. HUMPHREY] were added as cosponsors of Senate Concurrent Resolution 151, a concurrent resolution expressing the sense of the Congress on United States policy toward Afghanistan.

SENATE RESOLUTION 297

At the request of Mr. DIXON, the name of the Senator from Georgia [Mr. NUNN] was added as a cosponsor of Senate Resolution 297, a resolution to call for an International Congress on Terrorism.

SENATE RESOLUTION 397

At the request of Mr. QUAYLE, the name of the Senator from Iowa [Mr. GRASSLEY] was added as a cosponsor of Senate Resolution 397, a resolution expressing the sense of the Senate regarding the lending practices of multilateral development banks.

SENATE RESOLUTION 424

At the request of Mrs. HAWKINS, the names of the Senator from Alabama [Mr. DENTON], and the Senator from Pennsylvania [Mr. HEINZ] were added as cosponsors of Senate Resolution 424, a resolution commending Col. Ricardo Montero Duque for the extraordinary sacrifices he has made to further the cause of freedom in Cuba, and for other purposes.

AMENDMENT NO. 1823

At the request of Mrs. KASSEBAUM, the name of the Senator from Nebraska [Mr. EXON] was added as a cosponsor of amendment No. 1823 intended to be proposed to S. 100, a bill to regulate interstate commerce by providing for a uniform product liability law, and for other purposes.

AMENDMENT NO. 2125

At the request of Mr. ABDNOR, the names of the Senator from Minnesota [Mr. DURENBERGER], the Senator from North Dakota [Mr. ANDREWS], and the Senator from Minnesota [Mr. BOSCHWITZ] were added as cosponsors of amendment No. 2125 intended to be proposed to H.R. 3838, a bill to reform the international revenue laws of the United States.

SENATE RESOLUTION 432—RELATING TO CERTAIN CUBAN POLITICAL PRISONERS

Mr. CHILES submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 432

Whereas, 17 Cuban political prisoners have been released from imprisonment;

Whereas, these political prisoners have suffered brutal and inhumane treatment from a government identified as one of the worst human rights violators in the world;

Whereas, these individuals have been denied basic human rights because of their steadfast opposition to a Communist and totalitarian regime;

Whereas, U.S. immigration law has consistently reflected a national policy of providing safe haven to those experiencing political persecution;

Whereas, the President of the United States has pledged to make "any effort" to allow these former Cuban political prisoners to seek refuge in the United States;

Whereas, the Departments of State and Justice have indicated that asylum will be denied these former prisoners pending reinstatement of the December 14, 1985, immigration accord suspended by the Cuban Government;

Whereas, this denial of asylum will serve only to work further hardship on these victims of Cuban injustice;

Be it therefore resolved That it is the sense of the Senate that for humanitarian reasons—Roger F. Reyes Hernandez, Sergio Ruiz Hernandez, Fernando Rodriguez Vega, Francisco Diaz Garrigo, Jose Sanchez Otero, Osvaldo Sanabria Morales, Osvaldo Baro Miranda, Manuel Antolin Marcel, Arcadio Peguero Ceballas, Pastor Macuran Rodriguez, Jesus Martinez Martinez, Felipe Hernandez Garcia, Gilberto Prats Rodriguez, Samuel Tejera Milian, Francisco Garcia Rojas, Fernando Villalan, Juan Sanchez Bruna, be granted asylum in the United States. That innocent political prisoners not be employed as leverage to effect changes in policy by the Cuban Government. And that the Department of State seek other means to accomplish reinstatement of the December 14, 1985, immigration accord.

Mr. CHILES. Mr. President, the recent release of 17 political prisoners by the Cuban Government is welcome news. Cuba ranks as one of the world's worst violators of human rights and this release of political prisoners is a rare bright note.

A few prisoner releases, while welcome, do not erase Cuba's long history of abuse. Nor will it still our desire to see those who remain in Cuba's jails set free. As free men, we must constantly strive to secure freedom for Cuba's political prisoners. Those men and women whose only offense is a belief in democracy and who have sacrificed so much in defying the totalitarian regime of Fidel Castro deserve nothing less.

Mr. President, after years of suffering the injustice of the Cuban penal system, these former prisoners are now facing what can only be called an unjust policy decision by the U.S. Government. Incredibly our State Department, in a misguided attempt to pressure the Cuban Government to reinstate the December 14 immigration accord is denying these men asylum in the United States. I certainly want the immigration accord reinstated but punitive action against men who have suffered at the hands of Castro is hardly the way to go about it.

I believe that by denying these political prisoners asylum we punish the innocent for the actions of the guilty. This does not make sense and to my mind it won't leverage the Cuban Government to do anything.

In this country we maintain a long held tradition of providing haven for the victims of political persecution. In this case the State Department has turned its back on the oppressed and burdens them for a situation over which they had no control. It is wrong to place roadblocks in these political prisoners' path to freedom.

I believe the administration should reconsider this policy. The President just a few days ago pledged to make every effort to permit recently released political prisoners into this country. The State Department, however, has not followed through. It is certainly imperative that the State Department receive a strong message.

Mr. President, I am introducing a Senate Resolution to express the concern of the Senate with this situation and to send a message that those who have fought the good fight for democracy and suffered at hands of a brutal,

Communist regime are welcome in this country.

SENATE RESOLUTION 433—AUTHORIZING REPRESENTATION BY THE SENATE LEGAL COUNSEL

Mr. DOLE (for himself and Mr. BYRD) submitted the following resolution; which was considered and agreed to:

S. RES. 433

Whereas in the case of *State of Colorado and the City and County of Denver* v. *Mary Cunningham, et al.* Crim. No. 5-040856, pending in the Denver County Court, Denver, Colorado, the prosecution has obtained a subpoena for the testimony of John W. Jackson, State Director for Senator William L. Armstrong;

Whereas pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. 288b(a) and 288c(a)(2) (1982), the Senate may direct its counsel to represent Members or employees of the Senate with respect to subpoenas issued to them in their official capacity;

Whereas by the privileges of the United States Senate and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate can, by the judicial process, be taken from such control or possession but by permission of the Senate;

Whereas when it appears that testimony of employees of the Senate is or may be needful for use in any court for the promotion of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges and rights of the Senate: Now, therefore, be it

Resolved, That the Senate Legal Counsel is directed to represent Senator William L. Armstrong, John W. Jackson, and any other staff assistant of Senator Armstrong who may be asked to testify in the case of *State of Colorado and the City and County of Denver* v. *Mary Cunningham, et al.* or subsequent related proceedings.

SEC. 2. That John W. Jackson and any other staff assistant of Senator Armstrong who may be asked is authorized to testify in the case of *State of Colorado and the City and County of Denver* v. *Mary Cunningham, et al.,* including any appeals thereto, except concerning matters which may be privileged.

AMENDMENTS SUBMITTED

TAX RELIEF ACT OF 1986

ROTH AMENDMENT NO. 2139

Mr. ROTH proposed an amendment to the bill (H.R. 3838) to reform the internal revenue laws of the United States; as follows:

On page 1725, beginning with line 4, strikeout all through page 1727, line 8.

On page 1903, lines 5 and 6, strike "December 31, 1986" and insert "November 1, 1986".

DOLE (AND OTHERS) AMENDMENT NO. 2140

Mr. DOLE (for himself, Mr. LONG, Mr. METZENBAUM, Mr. DURENBERGER, and Mr. CHAFEE) proposed an amendment to the bill (H.R. 3838), supra; as follows:

On page 1411, line 14, strike "and".

On page 1411, line 15, strike the period and insert ", and".

On page 1411, between lines 15 and 16, insert:

"(4) any deduction for any impairment-related work expenses.

On page 1412, line 10, strike the end quotation marks.

On page 1412, between lines 10 and 11, insert:

"(c) IMPAIRMENT-RELATED WORK EXPENSES.—For purposes of this section, the term 'impairment-related work expenses' means expenses—

"(1) of a handicapped individual (as defined in section 190(a)(3)) for attendant care services at the individual's place of employment and other expenses in connection with such place of employment which are necessary for such individual to be able to work, and

"(2) with respect to which a deduction is allowable under section 162 (determined without regard to this section)."

On page 2610, between lines 17 and 18, add the following new paragraph:

(4) Section 7702(e)(2) is amended—

(A) by striking out "and" at the end of subparagraph (A),

(B) by striking out the period at the end of subparagraph (B), and inserting in lieu thereof a comma and "and", and

(C) by adding at the end thereof the following new subparagraph:

"(C) for purposes of the cash value accumulation test, the death benefit increases may be taken into account if the contract—

"(i) has an initial death benefit of $5,000 or less,

"(ii) provides for a fixed predetermined annual increase not to exceed 10 percent of the initial death benefit or 8 percent of the death benefit at the end of the preceding year, and

"(iii) was purchased to cover payment of burial expenses or in connection with prearranged funeral expenses.

For purposes of subparagraph (C), the initial death benefit of a contract shall be determined by treating all contracts issued to the same contract owner as 1 contract."

On page 1923, after line 21, insert:

SEC. 1003. DENIAL OF DEDUCTION FOR INTEREST ON LOANS FROM CERTAIN LIFE INSURANCE CONTRACTS.

(a) IN GENERAL.—Section 264(a) (relating to disallowance of deduction for certain amounts paid in connection with insurance contracts) is amended by adding after paragraph (3) the following new paragraph:

"(4) Any interest paid or accrued on any indebtedness with respect to 1 or more life insurance policies owned by the taxpayer covering the life of any individual who is—

"(A) an officer or employee of, or

"(B) any person financially interested in, any trade or business carried on by the taxpayer to the extent that the aggregate amount of such indebtedness exceeds $50,000."

(b) CONFORMING AMENDMENT.—Section 264(a) is amended by adding at the end thereof the following new sentence: "Paragraph (4) shall apply with respect to contracts purchased after June 20, 1986.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to contracts purchased after June 20, 1986, in taxable years ending after such date.

STEVENS AMENDMENT NO. 2141

Mr. STEVENS proposed an amendment to the bill (H.R. 3838), supra; as follows:

On page 2454, on line 7, insert the following new section:

SEC. 1709. AMENDMENT TO THE REINDEER INDUSTRY ACT OF 1937.

(a) TAX EXEMPTION FOR REINDEER-RELATED INCOME.—Before the period at the end of the first sentence of section 8 of the Act of September 1, 1937, insert the following: ": *Provided,* That during the period of the trust, income derived directly from the sale of reindeer and reindeer products as provided in this Act shall be exempt from Federal income taxation".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if originally included in the provision of the Act of September 1, 1937, to which such amendment relates.

On gage 1903, between lines 6 and 7, add the following:

"(d) Notwithstanding the above provisions the amendments made by this section shall apply to taxable years beginning after July 1, 1986."

HIGHWAY IMPROVEMENTS

SPECTER AMENDMENT NO. 2142

(Ordered referred to the Committee on the Judiciary.)

Mr. SPECTER submitted an amendment intended to be proposed by him to the bill (S. 2405) to authorize appropriations for certain highways in accordance with title 23, United States Code, and for other purposes; as follows:

On page 47, strike out lines 6 through 19.

TAX REFORM ACT OF 1986

BUMPERS (AND OTHERS) AMENDMENT NO. 2143

Mr. BUMPERS (for himself, Mr. MATTINGLY, and Mr. METZENBAUM) proposed an amendment, which was subsequently modified, to the bill (H.R. 3838), supra; as follows:

On page 1659, beginning with line 21, strike out all through page 1661, line 2, and insert in lieu thereof the following:

SEC. 559. LIMITATION ON NET OPERATING LOSS CARRYBACKS.

(a) IN GENERAL.—Section 172 (relating to net operating loss deduction) is amended by redesignating subsection (l) as subsection (m) and by inserting after subsection (k) the following new subsection:

"(l) LIMITATION ON NET OPERATING LOSS CARRYBACKS.—For purposes of this section, with respect to any corporation, any net operating loss carryback shall reduce such corporation's income tax liability with respect to any carryback year only to the extent such carryback does not exceed an amount equal to the product of—

"(1) the amount of such carryback, and

"(2) the highest rate of tax prescribed under section 11 in the taxable year to which the net operating loss giving rise to such carryback arose; *provided, however,* That the number used as such highest rate of tax shall be adjusted, under regulations; so that the revenues generated by this section shall not exceed $200 million during the period of fiscal years 1987-1991.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to net operating losses for taxable years beginning after December 31, 1986.

BYRD (AND ROCKEFELLER) AMENDMENT NO. 2144

Mr. BYRD (for himself and Mr. ROCKEFELLER) proposed an amendment to the bill (H.R. 3838), supra; as follows:

At the appropriate place insert the following:

SEC. . SPECIAL RULE FOR SECTION 404(c) PLAN

(a) Section 205 of the ERISA of 1974 is amended by adding thereto a new subsection "(k)" to read as follows:

"(k) The provisions of this section do not apply to a plan that the Secretary of the Treasury has determined is a plan described in Section 404(c) of the Internal Revenue Code of 1954, or a continuation thereof, in which participation is substantially limited to individuals who, before January 1, 1976, ceased employment covered by the Plan."

(b) Section 401(a)(11) of the Internal Revenue Code of 1954 is amended by adding thereto a new subparagraph "(E)" to read as follows:

"(E) The provisions of this paragraph do not apply to a plan that the Secretary of the Treasury has determined is a plan described in Section 404(c), or a continuation thereof, in which participation is substantially limited to individuals who, before January 1, 1976, ceased employment covered by the Plan."

(c) Section 303 of the Retirement Equity Act of 1984 is amended by adding thereto a new subsection "(f)" to read as follows:

"(f) The requirements of this section do not apply to a plan that the Secretary has determined is a plan described in Section 404(c), or a continuation thereof, in which participation is substantially limited to individuals who, before January 1, 1976, ceased employment covered by the Plan."

BAUCUS AMENDMENT NO. 2145

Mr. BAUCUS proposed an amendment to amendment No. 2143 proposed by Mr. BUMPERS (and others) to the bill (H.R. 3838), supra; as follows:

In lieu of the matters proposed to be inserted, insert the following:

SEC. 559. VOLUNTARY DISCLOSURE POLICY.

(a) IN GENERAL.—Except as provided in subsection (b) in the case of any violation of any tax law for any taxable period, the taxpayer shall not be liable for any Federal criminal penalty relating to tax administration under section 6103(b)(4) of the Internal Revenue Code of 1954 with respect to such violation, if full disclosure of such violation, and the source of the income with respect to such violation, is made to the Secretary of the Treasury or his designee before notice of an inquiry or investigation into the taxpayer's tax affairs is given to the taxpayer (or a related party) by the Internal Revenue Service, any other law enforcement agency, or any tax administration agency.

(b) SPECIFIC EXCEPTIONS.— Subsection (a) shall not apply to any violation—

(1) of the National Firearms Act,

(2) related to income resulting from an action that is a violation of Federal, State, or local law (other than tax law), or

(3) With respect to which the taxpayer made any representation pursuant to an application for relief under this section which is false or fraudulent in any material respect.

(c) REGULATIONS TO IMPLEMENT POLICY.— Subsection (a) shall take effect upon the issuance by the Secretary of the Treasury or his delegate of such regulations as may be necessary or appropriate to carry out the proposes of such subsection. Such regulations shall be issued no later than January 1, 1987, and may provide that subsection (a) not apply ot certain categories of persons. Subsection (a) shall not apply after the date which is 2 years after the date of the issuance of such regulations. In no event shall subsection (a) apply unless section 9505 of the Internal Revenue Code is in effect.

(d) REGULATIONS TO IMPLEMENT POLICY.— Subsection (a) shall take effect upon the issuance by the Secretary of the Treasury or his delegate of such regulations as may be necessary or appropriate to carry out the purposes of such subsection. Such regulations shall be issued no later than January 1, 1987, and may provide that subsection (a) not apply to certain categories of persons.

(e) PUBLICITY CAMPAIGN FOR VOLUNTARY DISCLOSURE POLICY, ETC.—

(1) IN GENERAL.—The Secretary of the Treasury shall supplement existing taxpayer service programs with a comprehensive publicity campaign concerning the provisions of subsection (a)s and a public relations program to restore public confidence in the Federal tax system.

(2) PUBLICITY CAMPAIGN TECHNIQUES.— The publicity campaign shall include public press releases, annual notices to taxpayers, and notices in Internal Revenue Service publications for general public usage.

GORE (AND SASSER) AMENDMENT NO. 2146

Mr. GORE (for himself and Mr. SASSER) proposed an amendment to the bill (H.R. 3838), supra; as follows:

On page 2710, line 22, strike out "or".

On page 2711, line 11, strike out the period and insert in lieu thereof a comma and "or".

On page 2711, between lines 11 and 12, insert the following new subparagraph:

(D) if—

(i) such facility is a thermal transfer facility.

(ii) is to be built and operated by the Elk Regional Resource Authority, and

(iii) is to be on land leased from the United States Air Force at Arnold Engineering Development Center near Tullahoma, Tennessee.

On page 2712, between lines 2, and 3, insert the following new subparagraph:

(D) In the case of a solid waste disposal facility described in paragraph (2)(D), the aggregate face amount of obligations to which paragraph (1) applies shall not exceed $25,000,000.

GORTON AMENDMENT NO. 2147

Mr. GORTON proposed an amendment to the bill (H.R. 3838), supra; as follows:

(e) TAX-EXEMPT STATUS FOR ORGANIZATIONS INTRODUCING INTO PUBLIC USE TECHNOLOGY DEVELOPED BY QUALIFIED ORGANIZATIONS.—

(1) IN GENERAL.—Section 501 (relating to exemption from tax on corporations, certain trusts, etc.) is amended—

(A) by redesignating subsection (m) as subsection (n), and

(B) by inserting after subsection (l) the following new subsection:

"(m) ORGANIZATIONS INTRODUCING INTO PUBLIC USE TECHNOLOGY DEVELOPED BY QUALIFIED ORGANIZATIONS.—

"(1) IN GENERAL.—For purposes of this title, an organization shall be treated as an organization organized and operated exclusively for charitable purposes if such organization—

"(A) is organized and operated exclusively—

"(i) to provide for (directly or by arranging for and supervising the performance by independent contractors)—

"(I) reviewing technology disclosures from qualified organizations,

"(II) obtaining protection for such technology through patents, copyrights, or other means, and

"(III) licensing, sale, or other exploitation of such technology,

"(ii) to distribute the income therefrom, after payment of expenses and other amounts agreed upon with originating qualified organizations, to such qualified organizations, and

"(iii) to make research grants to such qualified organizations,

"(B) regularly provides the services and research grants described in subparagraph (A) exclusively to 1 or more qualified organizations, except that research grants may be made to such qualified organizations through an organization which is controlled by 1 or more organizations each of which—

"(i) is an organization described in subsection (c)(3) or the income of which is excluded from taxation under section 115, and

"(ii) may be a recipient of the services or research grants described in subparagraph (A), and

"(C) derives at least 80 percent of its gross revenues from providing services to qualified organizations located in the same state as the state in which such organization has its principal office; and was incorporated on July 20, 1981.

"(2) QUALIFIED ORGANIZATIONS.—For purposes of this subsection, the term 'qualified organization' has the same meaning given to such term by section 30(e)(6)."

On page 2207, line 14, strike out "(e)" and insert in lieu thereof "(f)".

GRASSLEY (AND DOLE) AMENDMENT NO. 2148

Mr. GRASSLEY (for himself and Mr. DOLE) proposed an amendment, which was subsequently modified, to the bill (H.R. 3838), supra; as follows:

On page 1515, between lines 21 and 22, insert:

(16) CERTAIN TRUCKS.—The amendments made by section 201 shall not apply to trucks, tractor units, and trailers which a privately held truck leasing company headquartered in Des Moines, Iowa, contracted to purchase in September 1985.

MATSUNAGA AMENDMENT NO. 2149

Mr. MATSUNAGA proposed an amendment to the bill (H.R. 3838), supra; as follows:

At the end of title XVII, insert the following:

SEC. . SPECIAL RULE FOR EDUCATIONAL ACTIVITIES AT CONVENTION AND TRADE SHOWS.

(a) CERTAIN EDUCATIONAL ACTIVITIES TREATED AS CONVENTION AND TRADE SHOW ACTIVITIES.—Section 513(d)(3)(B) (relating to qualified convention and trade show activity) is amended by inserting after "industry in general" the following: "or to educate persons in attendance regarding new developments or products and services related to the exempt activities of the organization".

(b) QUALIFYING ORGANIZATIONS.—Section 513(d)(3)(C) (relating to qualifying organization) is amended by striking out "501(c)(5) or (6)" and inserting in lieu thereof "501(c)(3), (4), (5), or (6)" and by inserting before the period at the end thereof the following: "or which educates persons in attendance regarding new developments or products and services related to the exempt activities of the organization".

(c) EFFECTIVE DATE.—The amendments made by this Section shall apply to activities in taxable years beginning after the date of enactment of this Act.

At the appropriate place in title V, insert the following:

SEC. . PRIVATE FOUNDATIONS SUBJECT TO ESTIMATED PAYMENT OF CERTAIN EXCISE TAXES.

(a) IN GENERAL.—Section 6154 (relating to installment payments of estimated income tax by corporations) is amended by inserting at the end thereof the following new subsection:

"(h) CERTAIN PRIVATE FOUNDATIONS.—With respect to any private foundation subject to the excise tax imposed by section 4940, this section and section 6655 shall apply, as provided by regulation, in a manner consistent with the provisions of such sections."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1986.

DOLE (AND GRASSLEY) AMENDMENT NO. 2150

Mr. DOLE (for himself and Mr. GRASSLEY) proposed an amendment to the bill (H.R. 3838), supra; as follows:

On page 1509, between lines 21 and 22 insert:

Paragraph (5) of section 202(d) is amended by adding at the end thereof new subparagraph (0) as follows—

(0) A project is described in this subparagraph if—

(i) a commitment letter was entered into with a financial institution on January 23, 1986 for the financing of the project,

(ii) the project involves inter-city communication links (including microwave and fiber optics communications systems and related property),

(iii) the project consists of communications links between

(a) Omaha, Nebraska and Council Bluffs, Iowa,

(b) Waterloo, Iowa and Sioux City, Iowa,

(c) Davenport, Iowa and Springfield, Illinois, and

(iv) the estimated cost of such project is approximately $13,000,000.

HEFLIN (AND DENTON) AMENDMENT NO. 2151

Mr. HEFLIN (for himself and Mr. DENTON) proposed an amendment to the bill (H.R. 3838), supra; as follows:

Section 1518 of H.R. 3838, as reported by the Committee on Finance of the Senate, is amended by adding a new subsection (m) at the end thereof to read as follows:

(m) LIMITATION ON INVESTMENT IN NONPURPOSE OBLIGATIONS.—

(A) IN GENERAL.—Section 103(e)(6)(C) of the Internal Revenue Code of 1954 shall not apply to amounts in a fund described in subparagraph (B) as that fund is in effect on the date of enactment.

(B) CERTAIN MANDATORY ACCUMULATIONS.—A fund is described in this subparagraph if—

(i) amounts must be paid into such fund under a constitutional provision, statute, or ordinance which was initially effective in 1901 and was last modified in 1919,

(ii) under such constitutional provision, statute, or ordinance, amounts paid into such fund (and receipts from investment of such fund) can be used only to pay debt service on general obligations of a governmental unit and for no other purpose, and

(iii) the size of the payments made into such fund is independent of the size of the outstanding issues (including the debt service thereon).

MOYNIHAN AMENDMENT NO. 2152

Mr. PACKWOOD (for Mr. MOYNIHAN) proposed an amendment to the bill (H.R. 3838), supra; as follows:

Strike subparagraph (E) on page 2503 on lines 8 through 12 and insert in lieu thereof the following:

(E) Paragraph (8) of section 312(n) (as redesignated by subparagraph (C)) is amended by striking out "paragraphs (5), (6), and (7)" and inserting in lieu thereof "paragraphs (4) and (6)," and by inserting the following language after "December 31, 1985": "and paragraph (5) shall apply only in the case of taxable years beginning after December 31, 1987."

At the appropriate place in the bill, insert the following new section: Section . Treatment of certain technical personnel

(a) IN GENERAL.—Section 530 of the Revenue Act of 1978 is amended by adding at the end thereof the following new subsection:

"(d) EXCEPTION.—This section shall not apply to services provided pursuant to an arrangement between such person and another organization whereby the individual provides services as an engineer, designer, drafter, computer programmer, systems analyst, or other similarly skilled worker engaged in a similar line of work for such other organization."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to services rendered after the date of enactment of this section.

NOTICES OF HEARINGS

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. ANDREWS. Mr. President, I would like to announce for the information of the public that the Select Committee on Indian Affairs will be holding a hearing on Wednesday, July 16, 1986, in Senate Dirksen 628, commencing at 10 a.m., on S. 1453, to reaffirm the boundaries of the Great Sioux Reservation to convey federally held lands in the Black Hills to the Sioux Nation; to provide for the economic development, resource protection, and self-determination of the Sioux Nation; to remove barriers to the free exercise of the traditional Indian religion in the Black Hills; to preserve the sacred Black Hills from desecration; to establish a wildlife sanctuary; and for other purposes. Those wishing additional information should contact Peter Taylor of the committee at 224-2251.

SUBCOMMITTEE ON PUBLIC LANDS, RESERVED WATER AND RESOURCE CONSERVATION

Mr. WALLOP. Mr. President, I would like to announce for the information of the Senate and the public, the scheduling of public hearings before the Subcommittee on Public Lands, Reserved Water and Resource Conservation on Tuesday, August 19, 1986, in La Grande, OR. The subcommittee will receive testimony on S. 1803, to designate certain lands in and near the Hells Canyon National Recreation Area as additions to the Hells Canyon Wilderness, OR, and for other purposes.

The hearing will be held at the Eastern Oregon State College, 8th and K Avenue, room 142, Zabel Hall, La Grande, OR, at 8 a.m.

Witnesses must sign up to testify in advance at the office of Senator HATFIELD, room 114, Pioneer Courthouse, Portland, OR 97204, by close of business August 15, 1986, phone 503-221-3386.

Because of the number of witnesses expected to testify, witnesses will be placed in panels. Oral testimony will be limited to 3 minutes. Witnesses are requested to bring 15 copies of their testimony to the hearing with them. Do not submit testimony in advance. For further information, please contact Tony Bevinetto of the Public Lands, Reserved Water and Resource Conservation Subcommittee staff at 202-224-5161.

SUBCOMMITTEE ON WATER AND POWER

Mr. MURKOWSKI. Mr. President, I would like to announce for the information of the Senate and the public concerning the field hearing previously scheduled before the Subcommittee on Water and Power of the Committee on Energy and Natural Resources on Tuesday, July 1, 1986, in Yakima, WA, some additional information. The hearing will begin at 9 a.m. in the Yakima Valley Community College, the lounge room in the Student Union Building, 16th and Nob Hill.

The purpose of this hearing is to receive testimony on S. 2519, to authorize certain elements of the Yakima River Basin water enhancement project, and for other purposes.

Those wishing to testify or submit written statements for the hearing

record should contact one of the following offices: The office of Senator DANIEL EVANS, 697 Federal Building, West 920, Riverside Avenue, Spokane, WA 99201; staff contact, A.J. Pardini or Linda Faught, 509-456-2507; or the office of Congressman SID MORRISON, 212 East E Street, Yakima, WA 98901; staff contact, Marge Hartwick or Virginia Santillanes, 509-575-5891. For further information regarding this hearing, please contact Mr. Russell Brown of the Water and Power Subcommittee staff in Washington, DC, at 202-224-2366.

SUBCOMMITTEE ON WATER AND POWER

Mr. MURKOWSKI. Mr. President, I would like to announce for the information of the Senate and the public, that the Subcommittee on Water and Power of the Committee on Energy and Natural Resources is postponing the hearing it had previously scheduled for Tuesday, June 24, 1986, beginning at 10 a.m. in room SD-366 of the Senate Dirksen Office Building, Washington, DC. This hearing will be rescheduled in the near future.

The purpose of this hearing was to receive testimony on the general relationship between the Federal Energy Regulatory Commission and related State public utility regulatory commissions and S. 1149, to amend the Federal Power Act to allow State commissions to determine whether to exclude all or part of a rate set by the Federal Energy Regulatory Commission based on construction cost.

For further information regarding this hearing, please contact Mr. Russell Brown at 202-224-2366.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. ROTH. Mr. President, the Senate Committee on Governmental Affairs will hold a business meeting on Wednesday, June 25 at 10 a.m. in room SD-342. Under consideration will be the following:

S. 2230—Federal Management Reorganization and Cost Control Act of 1986.

S. 2004—Government Management Report Act.

S. 2005—Inspector General Act Amendments.

S. 2426—Contract Disputes Act Amendments.

S. 2433—Simplified Competitive Acquisition Test Act.

S.J. Res. 190—Productivity Improvements Joint Resolution.

S. 1657—Reorganization Act Amendments.

H.R. 3168—Consolidated Federal Funds Report.

Nomination—Evelyn Queen, Associate Judge, D.C. Superior Court.

H.R. 2946—D.C. Jury System Act.

H.R. 3578—D.C. Judicial Efficiency and Improvements Act of 1985.

H.R. 3002—Executive Exchange Program.

For further information, please contact the committee office at 4-4751.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON THE JUDICIARY

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Friday, June 20, in order to receive testimony on S. 2323, a bill to exempt certain activities from provisions of the antitrust laws.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON PUBLIC LANDS, RESERVED WATER, AND RESOURCE CONSERVATION

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the Subcommittee on Public Lands, Reserved Water and Resource Conservation of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Friday, June 20, to hold a hearing to consider the following legislation:

S. 1019 and H.R. 2182, to authorize the inclusion of certain additional lands within the Apostle Islands National Lakeshore.

S. 2266, to establish a ski area permit system on national forest lands established from the public domain, and for other purposes.

S. 2287, to amend the Wild and Scenic Rivers Act to designate a certain portion of the Great Egg Harbor River in the State of New Jersey for potential addition to the Wild and Scenic Rivers System.

S. 2320, to amend an act to add certain lands on the Island of Hawaii to Hawaii Volcanoes National Park, and for other purposes.

S. 2351, to revise the boundaries of Olympic National Park and Olympic National Forest in the State of Washington, and for other purposes.

S. 2466, to designate a segment of the Saline Bayou in Louisiana as a component of the National Wild and Scenic Rivers System.

S. 2483, to amend the Fire Island National Seashore Act of 1964.

S. 2532, to amend the Wild and Scenic Rivers Act by designating a segment of the Black Creek in Mississippi as a component of the National Wild and Scenic Rivers System.

The PRESIDING OFFICER. Without objection it is so ordered.

COMMITTEE ON ARMED SERVICES

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Friday, June 20, in executive session to mark up the fiscal year 1987 Department of Defense, Military Construction, and Department of Energy National Security programs authorization bills.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

NOTICE OF DETERMINATION BY THE SELECT COMMITTEE ON ETHICS

● Mr. RUDMAN. Mr. President, it is required by paragraph 4 of rule 35 that I place in the CONGRESSIONAL RECORD notices of Senate employees who participate in programs, the principal objective of which is educational, sponsored by a foreign government or a foreign educational or charitable organization involving travel to a foreign country paid for by the foreign government or organization.

The select committee has received a request for a determination under rule 35, for Mr. Jon M. Austin, a member of the staff of Senator THOMAS F. EAGLETON, to participate in a program in the Federal Republic of Germany, sponsored by the Konrad-Adenauer-Stiftung, from June 21 to June 28, 1986.

The committee has determined that participation by Mr. Austin in the program in the Federal Republic of Germany, at the expense of the Konrad-Adenauer-Stiftung, is in the interest of the Senate and the United States.●

123D BIRTHDAY OF WEST VIRGINIA

● Mr. ROCKEFELLER. Mr. President, June 20 is a special day in the history of West Virginia. It was on this glorious and splendid day 123 years ago that West Virginia became the 35th State of the Union.

The proud people of West Virginia have overcome much strife and turbulence over the past century and a quarter. Born in war, West Virginia has known its share of hardship—and has always summoned the courage to surmount it.

Traveling across the State in his pursuit of the Presidency in 1960, John F. Kennedy recognized the toughness inherent in West Virginia's character. "When patriotism and courage and strength were in demand," he declared, "it was West Virginia who led the way in World Wars I and II and the Korean war to advance the cause of liberty and freedom." Indeed, the bold people of West Virginia have always answered the call of patriotism. This fact makes West Virginia's birthday more than a State celebration—it is a commemoration of the values all of America holds dear.

Beyond her rich tradition of patriotism and dedication to the advancement of our country, West Virginia is one of the most picturesque places in America. Traveling across the splendor of her mountains on a crisp spring day, the fresh scent of pure, clean air is overpowering. So, too, is the vision of natural beauty which surrounds

you. Small wonder that West Virginia has been dubbed "Almost Heaven."

So, Mr. President, today is a joyous celebration which is befitting of recognition among us all. It is the 123d birthday of the great State of West Virginia, a State which I am enormously proud and honored to have the opportunity to serve. With its rich tradition and beauty in mind, I say happy birthday to you, West Virginia!●

SALT: WHAT'S ALL THE NOISE ABOUT?

● Mr. QUAYLE. Mr. President, on its face, it's hard to explain. The President announces that we're no longer bound to an unratified arms agreement that's known to have expired last December and he is immediately attacked as if he's repudiated the entire arms control process.

Yet, our arms negotiators are still at work at Geneva, the Soviets have just made their first new offer since last fall, and the President has announced that the United States will not endeavor to deploy any more ballistic missile warheads or strategic systems than the Soviets have deployed.

What, then, is all the noise about?

Perhaps it's the often repeated concern that without SALT, the Soviets will out-build us. Certainly, the President's critics emphasize this point.

But if facts matter, this could'nt be the explanation. True, the CIA released estimates that without SALT, the Soviets might add between 3,500 and 5,500 ballistic missile warheads by 1990 and more than double their current inventory by 1994. But this differs only 6 to 9 percent from what the CIA estimates the Soviets are most likely to secure without SALT.

In fact, SALT has never been much of a restraint on the Soviets. The Soviets' ballistic missile warhead inventory has grown 500 percent since SALT I and more than doubled since SALT II. They already have more than seven highly accurate ICBM warheads for every U.S. silo.

If the facts don't support this argument or the agitation, perhaps it's diplomatic atmospherics that are at issue. We must adhere to SALT, the President's critics argue, since whatever its value, it would be reckless to drop until we have something better to take its place.

But if the President's critics are serious about this, they don't seem to take it very seriously. Consider: They're not seeking SALT's ratification; they don't have the Senate votes for this. Nor are they demanding strict adherence to SALT. Why? To do this would only highlight what rightly prompted SALT to be dropped in the first place—Soviet cheating.

SALT prohibits flight testing more than one new ICBM. Beyond their one announced new ICBM type, the SS-24, the Soviets have deployed 72 mobile SS-25's and recently flight tested a follow-on to their monster SS-18. To mask these violations, the Soviets have further violated SALT's prohibition against encoding or encrypting missile test data transmissions.

Each of these violations are serious. With a reserve force of mobile missiles, such as the SS-25's, the Soviets can eliminate the deterrent value of our force by making it impossible for us to target what we must to limit further damage and end war on telerable terms. A more accurate, heavy follow-on missile to the SS-18, meanwhile, could threaten even super-hardened silos proposed to protect MX. Finally, so long as Soviet levels of missile telemtry encryption are tolerated, neither SALT nor any other arms agreement will be verifiable.

The whole purpose behind SALT, of course, was to prevent such provocations by limiting missile modernization and demanding minimal levels of openness to assure verification.

The critics, however, no longer see things this way. Instead, they now argue that the true core of SALT consists of the three limits that the Soviets have not yet clearly violated on bombers carrying long-range cruise missiles and on multiple warhead ICBM's and sea-launched missiles. Conveniently, these are the very same limits that our own bomber, missile, and submarine missile boat modernization programs are now bumping up against. This may be an excellent political ploy, but it has very little to do with any serious effort to sustain SALT.

This leaves us with the last possibility, that if strict adherence to SALT isn't possible, it nonetheless is critical to adhere to as much of it as possible to maintain what arms control we can. This sounds plausible, but again, it's hard to believe and, ironically, is challenged by the critics' own suggested means for coping with Soviet SALT violations.

The central problem with SALT, after all, is that our strategic assumptions have changed since 1979. Where before we hoped that the Soviets would not acquire an overwhelming superiority in hard-target first-strike warheads, now we are resigned to such superiority. Where we once assumed the Soviets would freeze their development of missile defenses, now we recognize their near-term ability to deploy a crude nationwide system and the sustained, advanced work on directed energy weapons.

Finally, where we once hoped that the mere threat of possible withdrawal from SALT would prevent significant Soviet violations, now we know that they are willing to violate the agreement even after years of public complaints concerning their noncompliance.

To continue SALT, knowing all this, or worse, to build on it as a foundation isn't arms control, it's posturing. The President knows this, that's why he dropped SALT and is promoting proposals that will bring real reductions and factor in defense. Nor is SALT's obsolescence lost on the Soviets, whose latest arms proposal makes no mention of SALT, but instead is primarily focused on managing the development of missile defenses.

In fact, even the President's critics are willing to ignore SALT so they might deploy a new mobile missile, the Midgetman. This missile, they argue, is the perfect response to the Soviets' SS-25 violation of SALT. It's also a blantant violation of the agreement.

What, then, is all the noice about? If it's simply politics, we shouldn't listen. If it's substantive, it's yet to be demonstrated.●

IN COMMENDATION OF THE PHARMACEUTICAL MANUFACTURERS ASSOCIATION

● Mr. HATCH. Mr. President, for some years, I, along with others, have preached the need for less Federal involvement in our society and more encouragement of what have come to be called private sector initiatives, both here and abroad. Today I would like to focus my colleagues' attention on a prime example of private business voluntarily expending its resources to improve the quality of life among the disadvantaged—in this instance, in the developing world.

Africare, a Washington-based nonprofit organization dedicated to conducting health projects in Africa, has announced that this Sunday, June 22, in its Africare Day ceremonies at Howard University School of Law, it will present its 1986 Africare Distinguished Service Award to the Pharmaceutical Manufactuerers Association "in special recognition of contributions to the development of Africa."

In a letter to PMA President Gerald J. Mossinghoff, Africare Director C. Payne Lucas wrote:

> Africare applauds the significant contribution the pharmaceutical industry has made through PMA toward support of health care delivery in Africa. It is through this commitment on the part of PMA members that Africare has been able to effect a program for improved management and distribution of pharmaceuticals in The Gambia, with plans underway to implement additional programs in other parts of Africa.
>
> PMA member companies have made significant essential drug and vaccine contributions to meet special needs. Many lives have been saved as a result of the many investments over the last three decades of hundreds of millions of dollars in production, distribution, and research facilities in developing countries, including, of course, Africa. The cooperative effort by your industry is unprecedented and truly deserves substantial recognition.

The Pharmaceutical Manufacturers Association represents research based pharmaceutical companies. In the Gambia, 13 of its member companies financed a 21-month Africare demonstration project to improve the management and distribution of basic pharmaceuticals so they became more widely available in remote areas. Under the leadership of PMA President Mossinghoff and PMA Chairman of the Board William R. Miller of Briston-Myers Co., PMA is continuing its involvement in African development. Currently 14 PMA member companies are financing a project in Sierra Leone similar to that undertaken in the Gambia, at a cost of more than $350,000.

PMA Chairman Miller termed the Gambia and Sierra Leone efforts "positive steps in overcoming poor distribution systems that represent the principal obstacle to delivery of lifesaving medicines to rural populations in many Third World countries."

Mr. President, I believe that both Africare and the Pharmaceutical Manufacturers Association deserve our thanks and encouragement. It is truly heartening to see the commitment to public service by private organizations like these. Our country and our world are better places through the voluntary efforts of these and countless other organizations who are responsible for so much of the social and health care progress in all nations.●

HONORING JENNINGS RANDOLPH AND THE BLIND VENDING FACILITY ACT

● Mr. ROCKEFELLER. Mr. President, I rise to recognize a significant contribution of my immediate predecessor in the U.S. Senate, the Honorable Jennings Randolph.

Senator Randolph's legacy is truly monumental. During his 40 years in Congress, he was responsible for legislation in many areas. So many of his accomplishments endure in the form of laws and programs which continue to improve the lives of our citizens every day.

The Randolph-Sheppard Act, which became law 50 years ago today, and the programs created for blind vendors as a result of that law, are tributes to the vision and humanity of Senator Randolph.

While a member of the House of Representatives in 1934, during President Roosevelt's first term, Jennings Randolph proposed legislation to provide jobs which would enable blind persons to operate on their own in Federal buildings. This was during the midst of the Great Depression, a time when so many people were out of work. In an era when the blind were stereotyped as helpless and able to do little more than sell pencils on street corners, Jennings Randolph knew that persons disabled by blindness could and wanted to function independently—if only given the opportunity. With this conviction and determination, then-Representative Randolph succeeded in winning the support of his colleagues and gaining passage of his legislation.

Some 40,000 blind persons have been vendors under the Randolph-Sheppard Act for the Blind since its inception in 1936. Today, there are 3,700 blind vendors operating on Federal and other property across the country. They are doing so, too, in Senator Randolph's home State and mine, West Virginia.

Mr. President, I know that my Senate colleagues share my appreciation for Senator Randolph's distinguished work on behalf of the blind, and ask them to join me in celebrating the 50th anniversary of the Randolph-Sheppard Act for the Blind.●

BALTIC FREEDOM DAY

● Mr. RIEGLE. Mr. President, this past weekend, Baltic Americans throughout the country took time to reflect on the tragic Soviet occupation of their homelands which began 46 years ago, and to pay tribute to their friends and loved ones still suffering under Soviet oppression in Latvia, Lithuania, and Estonia.

I was honored to join Baltic-Americans in marking "Baltic Freedom Day" in my own State of Michigan, where I had the opportunity to witness the passion and commitment which Baltic Americans bring to the cause for justice in their homelands. The time spent in their presence convinced me that, with time and continued perseverance, freedom will eventually be returned to the captive Baltic nations of Latvia, Lithuania, and Estonia.

As the sponsor of this year's Baltic Freedom Day" resolution in the Senate, I am pleased that its unanimous approval by the Congress, for the fifth consecutive year, has finally provoked a response from the leaders in the Kremlin.

A recent article in the official newspaper Pravda strongly criticized President Reagan and the entire Congress for their collective ignorance in emphasizing that the three Baltic States were once free of Soviet domination.

The Pravda editorial of June 7 read in part:

> U.S. President R. Reagan recently signed a congressional resolution about a so-called "Baltic Freedom Day". . . . Maybe . . . R. Reagan has the wrong name? Or perhaps his advisers have not explained to him that Lithuania, Latvia, and Estonia are, of their own free will, an inalienable part of the Soviet Union and not "oppressed people," as it might appear to the U.S. President from his California ranch? Or perhaps he simply signed the document without reading it. . . . Otherwise, it must be stated that the U.S. lawmakers and the U.S. President have political standards so low that they would make any half-way knowledgeable schoolboy blush.
>
> It is never too late to learn. Maybe it would be worthwhile for U.S. Senators and Congressmen headed by their President to sit down and read the elementary textbook "The History of the U.S.S.R." in order to gain at least some basic knowledge about our country's state organization.

The fact is, we know the truth about Latvia, Lithuania, and Estonia, and we will not let the truth be forgotten or history rewritten. We do not need a history lesson from the Kremlin.

The truth is that, for centuries, the Baltic States were free of Soviet domination. It is also true that, just 46 years ago, freedom and independence in Latvia, Lithuania, and Estonia was snuffed by the Soviet Union.

On June 14, 1941, Soviet troops began a reign of terror in the Baltic States which rivaled that of the Nazis. During the night, more than 50,000 innocent men, women, and children were rounded up, forced into railroad cattle cars and deported to slave labor camps in Siberia. During the next 10 years of Soviet perpetrated violence, more than 600,000 Baltic citizens—10 percent of the total population of those nations, were eliminated.

The tragedy of the enslavement of the Baltic people 46 years ago is not only that those who persecuted the Baltic peoples have never been brought to justice, but that the persecution continues today.

After nearly five decades, the organized repopulation of the Baltic States by ethnic Russians and the forced russification of Latvia, Lithuania, and Estonia continues. Young Balts are forced to learn Russian at an early age, and fluency in the Russian language is a prerequisite for university admission and any higher level employment opportunities. The influx of over 1.2 million Russian settlers, combined with massive deportations, has lowered the native population in Latvia to 53 percent, in Estonia to 63 percent and in Lithuania to 80 percent.

Soviet disregard for these captive nations was painfully evident in their treatment of the Chernobyl nuclear disaster. Authorities did not warn the people living in the affected areas of the dangers of radioactive contamination, and they made it difficult for Baltic and Ukrainian Americans to get information about friends and loved ones living there. In addition, Soviet authorities continue to withhold important information about the disaster, despite a call by the international community for greater details.

Recent reports indicate that Latvian Army reservists are being spirited off to Chernobyl in the middle of the night, without adequate protective equipment, to assist in cleanup at the reactor site. This clandestine mobiliza-

tion is frighteningly reminiscent of the events of the night of June 14, 1941.

In light of the Chernobyl accident, it is particularly disturbing to know that an expansion of a huge nuclear plant in Northeast Lithuania, expected to be the largest in the world, is underway. Construction of the plant continues, despite protests from the scientific community in the Soviet Union that it is unsafe and lacks proper facilities to cool and contain contaminated water from the reactor core. In the event of the release of radioactivity, similar to that at Chernobyl, the contamination would be discharged directly into Lithuania's largest lake, Lake Druksial, which feeds into the Daugava River, and winds through many of Lithuania's most densely populated regions on its way to the Baltic Sea.

This is not the only nuclear threat which faces the Baltic people. The Baltic nations play host to one of the largest concentration of nuclear weapons on Earth. Over one-half of the nuclear weapons in the European part of the Soviet Union are stationed in Lithuania, Estonia, and Latvia. This deadly arsenal includes a substantial number of medium range SS-20's aimed at Northern and Central Europe, two squadrons of nuclear capable backfire bombers and six frogger ships equipped with ballistic missiles.

And so, today, continued United States support for the quest for freedom and self-determination in the Baltic States is more critical than ever. With the help of the Baltic-American community, the foreign policy decisions of our Government must be made with particular sensitivity to the plight of the citizens of Latvia, Lithuania, and Estonia.

At the heart of our policy toward the Baltic nations must be our continued commitment to never recognize as legal the Soviet occupation there.

We must continue to press the Soviets to grant basic human rights to all the Baltic people, including Kaisa Randpere, a 2-year-old Estonian, separated from her parents because of Soviet refusal to allow her to emigrate; Janis Barkans, a 27-year-old Latvian who continues to suffer mistreatment in the infamous Mordovian prison camp for demanding respect for his human rights; and Bayls Gajauskas, a 60-year-old Lithuanian dissident who has spent nearly half of his life in prison for promoting nationalism and human rights.

In addition, we must take a leading role in pressing for international safeguards on nuclear facilities within the International Atomic Energy Agency in order to prevent another Chernobyl-like disaster in the future.

Above all, we must reassure the people of the Baltic States that we still support their fundamental right of self-determination. The preservation of the distinct Lithuanian, Latvian, and Estonian identities must not be the task of the enslaved Baltic peoples alone. We must help, and we will help.

Knowing that the road to freedom is a long and difficult one, we recommit ourselves to making the dream of liberty a reality for all the Baltic peoples.

We must give hope to the desire for freedom which continues to burn in the hearts of the Baltic peoples. Where the memory of freedom persists, as it does in the occupied nations of Lithuania, Latvia, and Estonia, totalitarian domination can never succeed.●

CALL TO CONSCIENCE

● Mr. HARKIN. Mr. President, I am honored to join my distinguished colleagues in the Congressional Call to Conscience for Soviet Jews. I particularly commend my colleague from Maine, Senator MITCHELL, for taking the initiative in this area during the second session of the 99th Congress.

Recent events give us some hope for improvements in United States-Soviet relations. The November summit meeting and the prospect of a second summit fuel hopes for a partial thaw in relations between the superpowers. The release of Anatoly Shcharansky and the reuniting of more than a hundred divided spouses are signs of this development.

However, we should not let these events lull us into forgetting the plight of the 350,000 Soviet Jews who are still denied the right to emigrate. Jewish emigration which reached its peak of 51,000 in 1979, dropped to 1,140, and now is even lower than last year's level.

Repression in the Soviet Union is not confined to those Jews who seek to emigrate. The approximately 2.5 Soviet Jews suffer sweeping restrictions on the right to practice their religion. No seminars exist to train religious leaders. Neither Jewish religious texts nor ritual objects are produced in the Soviet Union. Persecution of unofficial Hebrew teachers continue. In addition, anti-Semitism remains a part of the military indoctrination program in the U.S.S.R., and anit-Semitic programs have been shown on prime-time television.

The case of Mikhail Kremen vividly portrays the plight of Soviet Jewry today. He first applied for emigration in late 1973, only to be denied permission on grounds of having been privy to state secrets. At his prior job as an engineer at an electronics plant, he worked only on open, nonsecret projects.

Mikhail's life since 1974 has been marred by a series of hardships and harassment. In October 1976, Mikhail was brutally beaten and imprisoned for 15 days simply for inquiring of the Ministry of Interior why they had denied him permission to emigrate. In July 1978, during the trial of Anatoly Shcharansky, Mikhail was again imprisoned.

The Kremen's problems with Soviet authorities are not confined to Mikhail. By 1980, his wife, Galina, applied to emigrate. She was subsequently informed that she had no chance of receiving her visa before her husband. Sasha Kremen, Mikhail's son, was arrested in November 1982 and sentenced to 4 years imprisonment in a labor camp outside Moscow. He is scheduled to be released in November of this year.

The release of refuseniks, like Anatoly Shcharansky, can be directly attributed to pressure applied by the West on the Soviet regime. The Kremen's and hundreds of thousands like them have not been so fortunate. We owe it to those refuseniks to redouble our efforts to guarantee their right to emigrate and to live in freedom outside the Soviet Union.

In closing, I am reminded of the words of Ida Nudel, a former Soviet Jewish prisoner of conscience and now a refusenik:

> No matter how I am tormented, how weak I am, how lonely or senseless my present life, I do not regret or renounce any of my actions. We believe our suffering is not for nothing, and this belief keeps us from despair. I believe that some day I will walk up the steps of an El-Al aircraft, and my suffering and my tears will remain in my memory only, and my heart will be full of triumph. And God grant that it will happen soon.

Through our efforts and those of millions worldwide, we can help transform the tears of Ida Nudel and Mikhail Kremen into triumph and their suffering into liberation.●

NATIONAL AGRICULTURAL EXPORT WEEK

● Mr. SASSER. Mr. President, I rise today in recognition of National Agricultural Export Week. This week was designed to highlight the importance of America's agricultural exports to our balance of trade and to the revitalization of American agriculture. This week also provides an excellent opportunity to explore the problems we face in our agricultural export market.

The importance of our agricultural exports cannot be overestimated. Earnings from agricultural exports have contributed $333 billion to our Nation's balance of payments in the past decade. American farmers rely on world markets to consume about 40 percent of their output.

Yet we face a precipitous decline in world markets. U.S. exports have fallen from a high of $43.8 billion in 1981 to $31 billion in 1985, and current forecasts for this year project a further reduction to $27.5 billion. We have lost market share in every major

commodity during this period. From 46 to 33 percent in wheat, from 72 to 55 percent in feed grains, and from 71 to 50 percent in soybeans. The projected surplus of $7 billion in farm trade this year will be the lowest since 1972.

Two weeks ago, Mr. President, I spoke about the devastating repercussions in our farm communities from the administration's policy on the international debt crisis. This administration would try to solve the Latin American debt problem with more debt. The so-called Baker plan calls for an increase of private bank debt, in addition to plans for increased lending by the World Bank and the International Monetary Fund.

Recent reports from the banking community indicate they have seen the flaws in this approach. The market value of claims on Latin American debtor countries is already below par value. I think the banks are wise to resist a call to forge ahead with massive new lending at this time.

When I spoke on this issue before, I iterated that American farmers are directly threatened by expanded agricultural lending to Latin American farmers that promotes exports. I referred to a World Bank loan to Argentina which resulted in the lowering of taxes on soybean exports, helping to flood world markets and force down prices.

Today, I want to focus on a loan to Brazil, directed specifically at exports. In 1984, the International Bank for Reconstruction and Development, part of the World Bank, made a $303 million loan to Brazil; the money was used in part to establish a revolving fund to rediscount prefinancing credits for exporters of agricultural and agroindustrial products. In short, the World Bank's plan for Brazil was a direct, specific subsidy of its agricultural exports.

Now, if the banks are going to balk at making further loans, the weight of the Baker plan is going to shift to the World Bank and the International Monetary Fund. Mr. President, the World Bank provides very valuable assistance to developing countries for a variety of purposes, the majority of which do not directly threaten the economic health of the United States. For example, there were loans to Brazil that same year to finance basic education and technical training. If one were inclined to view the situation from a self-serving point of view, economic and social development in these countries is in the long-term interest of the United States, as future markets and as future economic partners, rather than recipients.

But we need to ensure that we are not contributing, in the shortrun, through our tax dollars, to the collapse of American agriculture. That serves no one's best interests.

Yet, that is exactly what we are doing. The feed grain market provides an excellent example. Feed grain exports have declined from 69.3 million metric tons in the 1980–81 marketing year to a projected 48.8 million metric tons in 1985–86, nearly 30 percent. Corn exports from last October through December were only 515 million bushels, 85 percent of a year earlier. Barley exports declined 22 percent in that same period. In Tennessee, corn harvested for grain declined from 1980 to 1983 and has only increased in the past 2 years due to a shift by farmers from a crop even more devastated by the export market, soybeans.

Yet in the last decade, Argentina, Brazil, Canada, and Australia—the main competitors of the United States in the international grain trade—have added about 40 million acres to their grain and oilseed cropland base, and increased their yields by 22 percent. Argentina's corn exports are projected to increase from 7.1 million metric tons in 1984–85 to 8.3 million metric tons in 1985–86, while the United States market share of feed grains has declined nearly 15 percent since 1981.

Why we would recommend making this situation worse is beyond me. We literally cannot afford to subsidize the competition. Our farmers cannot afford to fight the competition and their own Government as well.

It is not my intent simply to complain, however, I think the Baker plan needs more direction, and I would like to offer constructive solutions. Rather than subsidizing farm exports, we should be encouraging the development of sound economic structures within the debtor nations so they can better manage their debt problem from within. Several debtor countries have already begun such programs and others should be encouraged and assisted in doing so.

Mr. President, there are a great many ways to defuse the debt bomb without harming our American farmers. The tremendous financial sophistication available in the major private banks, the World Bank, and the IMF must be brought to bear on these problems in creative ways. I intend to discuss some of these possibilities in the near future. Subsidizing competitors' exports, however, in a global agricultural trade war is not creative. It is destructive.●

FHA EXTENSION

● Mr. GORTON. Mr. President, I rise today to ask my colleagues to join me in calling for an immediate end to our war of wills over the Federal Housing Administration's [FHA] Single Family Housing Mortgage Insurance Program. For the past year Congress has held this program—and the hundreds of thousands of homeowners who depend on it for financing—hostage in a battle over housing policy. Congressional authority for this program has expired six times since the beginning of the current fiscal year on October 1, 1985.

We have heard many reasons and rationales for the congressional delay in action since the last short-term extension of the FHA program expired on June 6. Members of the other body have stated that a series of short term extension bills is the only way to force the Senate to take action on an omnibus housing bill. We have heard that amendments to the FHA extension bill are the only way to protect certain States' pet urban development action grant [UDAG] projects. These explanations provide little comfort, however, to the thousands of people whose mortgages have been delayed because of a lack of FHA authorization.

The current lapse in FHA authorization is creating acute anxieties among these citizens. They appreciate that the recent drops in interest rates have created a great demand for home financing, and that the large number of FHA applications will cause some delays. They understand that a shortage in the number of appraisers will slow the application process. They cannot understand, however, why their elected officials compound this situation by refusing to reauthorize the program.

I share their frustration. The present delay is costing them—individual Americans—thousands of dollars in increased interest and closing fees. It is time for Congress to focus on this group of citizens and put the FHA program back into full operation.●

NOMINATION OF DORCAS HARDY TO BE COMMISSIONER OF SOCIAL SECURITY ADMINISTRATION

● Mr. MOYNIHAN. Mr. President, last night, the Senate approved the nomination of Dorcas Hardy to be the Commissioner of the Social Security Administration, a position of enormous responsibility and one not to be taken lightly.

As my colleagues may know, I had asked that full Senate consideration of the nomination be delayed until I had the opportunity to evaluate her responses to a number of serious questions I had submitted to her about the Social Security Administration's disability benefit policies.

I was particularly interested to know how the Administration would implement the recent Supreme Court decision in Bowen versus City of New York, argued successfully on behalf of the city by Frederick A.O. Schwarz, Jr., the mayor's corporation counsel. In that case, the Supreme Court ruled unanimously that the Social Security Administration must reopen the cases of nearly 15,000 mentally ill New

Yorkers, whose disability benefits had been terminated, or whose applications had been denied, between 1978 and 1983.

I have since received written responses to all of the questions. Ms. Hardy has been responsive and forthcoming. Moreover, in her June 16 letter to me, Ms. Hardy stated:

I intend to do all I can to avoid the confrontational situation that evolved in the disability program prior to 1984 and will work with the Congress and the States to further the fair and uniform delivery of this critical social program.

Although I continue to hold serious concerns about recent events at the Social Security Administration, I believe it is unfair to hold Ms. Hardy accountable for the past policies to which I so strongly object. I expect, and I have indicated this to her, that those policies will not persist or recur under Commissioner Hardy's tenure at the Social Security Administration.

Mr. President, as others in this body are equally interested in the policies undertaken by the Commissioner of Social Security, I ask that a copy of my questions, and the Commissioner's responses, be included in the RECORD.

The material follows:

U.S. SENATE,
Washington, DC, June 10, 1986.

Hon. DORCAS R. HARDY,
Assistant Secretary for Human Development Services, Department of Health and Human Services, Washington, DC.

DEAR SECRETARY HARDY: As you are well aware, the Supreme Court last week delivered a unanimous decision in the case of *Bowen* v. *City of New York*. Under the ruling, the Department of Health and Human Services will be required to reopen the cases of some 10,000 mentally disabled New Yorkers, and reevaluate their claims for disability coverage.

As the Commissioner of the Social Security Administration, you would be actively involved in the implementation of the disability program, and in the enforcement of this recent court decision.

In that light, I would appreciate your responses to the following questions. I would be most interested in receiving preliminary answers to the questions tomorrow morning, before the Senate Finance Committee vote on your confirmation. I understand that additional time may be required to respond fully to these questions, and I would hope to receive your responses at your earliest convenience. If you have any questions, please contact Dorian Friedman on my staff at 224-7567.

Thank you very much.

Sincerely,

DANIEL PATRICK MOYNIHAN.

QUESTIONS SUBMITTED TO DORCAS HARDY, COMMISSIONER-DESIGNATE, SOCIAL SECURITY ADMINISTRATION

PAST ILLEGAL PRACTICES

1. What steps will you take to ensure that any policy that sets forth the basis for determining claims is not kept secret from claimants and their advocates?

2. I note that the State of New York was a plaintiff in this case, apparently because its Office of Disability Determinations could not successfully convince SSA that its policy was illegal other than by going to court. What steps will you take to open up communication with State adjudication agencies to prevent their having to go to court as the only way of ending illegal policies?

3. Will you continue to authorize appeals such as this one in which SSA essentially concedes the ruling on the merits—that you acted illegally—but seeks to bar the granting of any relief to the victims of the illegal policy?

4. By when will the relief ordered by the district court in *City of New York* be implemented? What steps will SSA take to locate class members who may not be at their last known address? Will SSA cooperate with the relevant New York City and New York State agencies, and with attorneys for the class, to help find lost class members and otherwise to implement relief fairly and quickly?

PROCESS FOR EVALUATING A CLAIM

1. There has been litigation in New York, as well as in other areas of the country, challenging the manner in which Step 2 determinations are made. Specifically, in *Dixon v. Bowen*, (589 F.Supp. 1784, *aff'd*, 785 F.2d 1102), Judge Lasker found, and the Second Circuit affirmed, that SSA had construed the determination of "severity" in a way which resulted in the illegal cutoff of thousands of disabled individuals. Instead of applying a minimal, threshold criterion—e.g., that someone with a cut on his finger does not have a severe impairment—SSA has required the claims adjudicators to make broader medical judgments regarding the nature of the impairment, while ignoring vocation factors such as age, education and work experience. Making those judgments at Step 2, instead of at Step 4 or 5, has, in violation of the statute and regulations, precluded the claimants from presenting proof regarding work experience and the demands of available jobs.

What steps has SSA taken to ensure that Step 2 evaluations are made as intended by the regulations—i.e., that the only claims to be denied at this point are those which are based on impairments of clearly minimal severity? What steps will you take to prevent the abuses which Judge Lasker found occurred in New York? What steps are being taken to implement the relief ordered by Judge Lasker?

2. There has been litigation around the country challenging the failure of SSA to make, pursuant to Step 3, "medical equivalence findings" or, in other words, to grant benefits based on a judgment that the impairment is equivalent to one set forth in the listings. There have also been allegations that SSA has failed even to provide any guidance to its evaluators regarding how to make such medical equivalence findings.

What steps has SSA taken to ensure that Step 3 "medical equivalence" findings are made in appropriate cases? What guidance, if any, does SSA provide to its evaluators regarding how to make such findings?

3. What position is SSA taking with respect to *Marcus v. Heckler*, presently pending in Chicago, in which the failure to make such medical equivalence findings is being challenged?

NONACQUIESCENCE

1. The conference agreement to the 1984 Social Security Disability Benefits Reform Act states: "The conferees urge that a policy of non-acquiescence be followed *only* in situations where the Administration has initiated or has the reasonable expectation and intention of initiating the steps necessary to receive a reveiw of the issues in the Supreme Court." H. Conf. Rep. at 37, 1984 U.S. Code, Cong., & Admin. News 3095 (emphasis added). Do you intend to abide by that policy? How do you intend to notify adjudicators, claimants, and claimants' advocates that a particular decision will not be acquiesced in? If SSA were denied a stay pending the appeal of a circuit court decision to the Supreme Court, would you allow SSA to non-acquiesce in the circuit court ruling from which the appeal is pending?

2. SSA has asserted in its appeals to the Second Circuit in *Schisler* and *Stieberger* that it does not non-acquiesce in the Second Circuit's treating physician rule, as set out in *Bluvband v. Heckler*. Will you instruct all disability claims adjudicators in the Second Circuit states to follow the *Bluvband* rule? Will you instruct all disability claims adjudicators in the country to comply with relevant circuit court precedent? Will you inform them of the relevant precedent by providing copies of relevant opinions of ALJs and the Appeals Council, and informing adjudicators at the state agencies, of their contents and implications?

3. The reading the Second Circuit panel deciding *Schisler* gave the *Bluvband* opinion is slightly different from the reading of Judge Sand in the *Stieberger* order. Which will you follow while the *Stieberger* appeal is pending in the Second Circuit?

4. The district court judge in *Stieberger* found that SSA has in the past and continues to ignore binding circuit cases in deciding claims for benefits. Does SSA intend to reopen the claims that were illegally denied under this policy? If not, why not? If not, does SSA intend to assert res judicata defenses against claimants who reapply?

OTHER ISSUES

1. In *Schisler v. Heckler*, a case challenging terminations of benefits without evidence of medical improvement, SSA took the position that a court may not, in advance of the adjudication of claims by SSA, impose substantive requirements on those adjudications. (Slip op. 12-13). In other words, SSA argued that system-wide challenges to SSA's policies resulting in general prospective relief could not be brought in the context of a class action lawsuit. Do you intend to adhere to that position? If so, how do you justify it?

2. The district court judge in *Stieberger* also found that SSA had in place for several years a policy of reviewing internally the decisions of ALJs who had comparatively high rates of benefits allowances, which affected the decisional independence of the ALJs. Does SSA intend to reopen the claims that were illegally denied under this policy? If not, why not? If not, does SSA intend to assert *res judicata* defenses against claimants who reapply?

3. I note that SSA has reinstated the Continuing Disability Investigations, in which SSA re-examines claims to ensure the recipient of benefits is still entitled to them. In the past, this process engendered a series of lawsuits which resulted in findings that SSA terminated large numbers of claimants improperly—for instance, by failing to evaluate impairments in combination. What steps do you intend to take to prevent such abuses from recurring?

DEPARTMENT OF HEALTH AND HUMAN SERVICES,
Washington, DC., June 11, 1986.

Hon. DANIEL PATRICK MOYNIHAN,
U.S. Senate,
Washington, DC.

DEAR SENATOR MOYNIHAN: This is in response to your recent questions prompted by *Bowen, et al.* v. *City of New York et al.* regarding practices, policies and procedures for making determinations on disability claims under the Social Security and SSI disability programs. I have given preliminary answers to a number of the questions which your staff indicated were of greatest concern to you and will provide complete responses to the entire list of questions as soon as possible.

I agree with you that these are serious issues and that ensuring an effective, fair and timely disability determination process is a priority for the Social Security Administration.

I look forward to working with you in the future on these issues which are of importance to both of us.

Sincerely,

DORCAS R. HARDY,
Assistant Secretary
for Human Development Services.

Enclosures.

Senator Moynihan.

Question: *Will you continue to authorize appeals such as this one in which SSA essentially concedes the ruling on the merits—that you acted illegally—but seeks to bar the granting of any relief to the victims of the illegal policy?*

Answer: As you know, only the Solicitor General can decide whether or not to appeal a particular case. Any recommendations to the Department of Justice are made on a case-by-case basis, after the interests of both claimants and the government have been carefully assessed.

While I am not in a position to judge the recommendation made by SSA in the *City of New York* case, I understand that the individuals involved in recommending the appeal believed that it was imperative to defend the statutory language requiring claimants to exhaust their administrative remedies prior to commencing an action in the Federal courts. In future deliberations concerning possible appeals, I can assure you that careful consideration will be given to the impact of an appeal upon individual claimants.

Senator MOYNIHAN.

Question: *In Schisler v. Heckler a case challenging terminations of benefits without evidence of medical improvement, SSA took the position that a court may not, in advance of the adjudication of claims by SSA, impose substantive requirements on those adjudications. (Slip op. 12-13). In other words, SSA argued that systemwide challenges to SSA's policies resulting in general prospective relief could not be brought in the context of a class action lawsuit. Do you intend to adhere to that position? If so, how do you justify it?*

Answer: The Social Security Administration did not argue in *Schisler* that systemwide challenges to SSA's policies resulting in general prospective relief could not be brought in the context of a class action lawsuit.

The government's future jurisdictional arguments in Social Security class actions will have to be considered in light of the Supreme Court's recent decision in the *City of New York* case. We will be working closely with the Department of Justice to ensure proper implementation of the Supreme Court's decision in this case and the government's position in future class actions will, of course, be formulated in light of the *City of New York* decision.

Senator MOYNIHAN.

Question: *What steps will you take to insure that any policy that sets the basis for determining claims is not kept secret from claimants and their advocates?*

Answer: SSA's policies and operating procedures are issued to adjudicators through the Program Operations Manual System (POMS), through the Federal regulations process including notice in the *Federal Register,* and through Social Security Rulings. I understand that the policy cited in the court case was issued in 1978 and was not issued in accordance with these prescribed procedures. I also understand that subsequent action has been taken to correct this incorrect policy.

Section 10 of the Social Security Disability Benefits Reform Act of 1984 requires the publication of regulations setting forth uniform standards for disability determinations pursuant to the Administrative Procedure Act. Such regulations are binding at all adjudicative levels. I understand that steps have been taken to comply with these requirements.

As Commissioner, I will ensure that these procedures are fully implemented and that claimants, their representatives, and advocates have access to and are informed of policy issuances at any Social Security office.

Senator MOYNIHAN.

Question: *By when will the relief ordered by the district court in City of New York be implemented? What steps will SSA take to locate class members who may not be at their last known address? Will SSA cooperate with the relevant New York City and New York State agencies, and with attorneys for the class, to help find lost class members and otherwise to implement relief fairly and quickly?*

Answer: Implementation began immediately after the court's decision. SSA identified all potential class members through its systems and began screening case folders to determine class membership. Approximately 14,000 cases have thus far been found to be a part of the class. About 5,000 cases have not yet been screened because the folder cannot be located. Special procedures for processing these cases are being proposed to plaintiff's counsel.

SSA will expedite these cases. SSA has already begun review of the denial cases not under the court's stay. Review of the denial cases under the stay will begin in July. The target for completing these cases is January.

In locating class members who may not be at their last known address, SSA has prepared an implementation plan to work closely with plaintiff's counsel in developing processing instructions. These instructions are expected to be completed in about 30 days. SSA also plans to match its records with the records of New York City and State welfare offices in an effort to obtain better addresses and to otherwise cooperate with the agencies.

Senator MOYNIHAN.

Question: *The conference agreement to the 1984 Social Security Disability Benefits Reform Act states: "The conferees urge that a policy of non-acquiescence be followed only in situations where the Administration has initiated or has the reasonable expectation and intention of initiating the steps necessary to receive a review of the issues in the Supreme Court." H. Conf. Rep. at 37, 1984 U.S. Code, Cong., & Admin. News 3095 (emphasis added). Do you intend to abide by that policy? How do you intend to notify adjudicators, claimants, and claimants' advocates that a particular decision will not be acquiesced in? If SSA were denied a stay pending the appeal of a circuit court decision to the Supreme Court, would you allow SSA to non-acquiesce in the circuit court ruling from which the appeal is pending?*

Answer: In June 1985, the Social Security Administration adopted a policy whereby it would acquiesce in circuit court decisions which conflict with agency policy and that policy was expanded in December 1985. Since the implementation of the agency's acquiescence policy, hundreds of circuit court decisions have been reviewed by a special SSA Task Force and, to date, twenty rulings in which SSA has acquiesced in various courts of appeals decisions have been issued. These twenty rulings are binding on all agency adjudicators at all levels of administrative review. A number of additional circuit court decisions are currently being considered for possible acquiescence rulings.

SSA expects that any future nonacquiescence in circuit court decisions will be rare. However, should such action become necessary in the future the agency will have to examine the specifics of such a case and decide whether the issuance of a ruling or regulation would be the most appropriate way to notify adjudicators and claimants.

A decision to nonacquiesce in future circuit court decision where a stay of judgment has not been granted and appeal is pending in the Supreme Court would only be made after close consultation with this Department's Office of the General Counsel and the Department of Justice and only after a careful evaluation is made of all the legal and administrative aspects of such a case.

Senator MOYNIHAN.

Question: *There has been litigation around the country challenging the failure of SSA to make, pursuant to Step 3, "medical equivalence findings" or, in other words, to grant benefits based on a judgment that the impairment is equivalent to one set forth in the listings. There have also been allegations that SSA has failed even to provide any guidance to its evaluators regarding how to make such medical equivalence findings. What steps has SSA taken to ensure that Step 3 "medical equivalence" findings are made in appropriate cases? What guidance, if any, does SSA provide to its evaluators regarding how to make such findings?*

Answer: I believe it is inaccurate to say that SSA has failed to provide guidance to evaluators regarding "medical equivalence findings." Our policy is clearly stated in regulations and in the POMS (Programs Operations Manual System). As you are aware, the decision as to whether an impairment is of equivalent severity to one found in the Listing of Impairments is a decision reserved for program physicians.

Recognizing the concerns raised by current litigation in this area, SSA has increased efforts to ensure understanding of this policy. As an example, SSA recently conducted training for disability adjudicators, including program psychiatrists, on how equivalency decisions are to be handled in certain mental retardation cases under the new mental impairment regulations. A POMS instruction on this type of case is in final clearance.

Senator MOYNIHAN.

Question: *I note that the State of New York was a plaintiff in this case, apparently because its Office of Disability Determinations could not successfully convince SSA that its policy was illegal other than by going to court. What steps will you take to open up communications with State Adjudicatory agencies to prevent their having to go to court as the only way of ending illegal policies?*

Answer: It is important that SSA have open lines of communication with the State Agencies. During the last several years, and especially in the implementation of the 1984 Amendments, SSA has extensively involved State Agencies in the development of new policies and operating procedures. As Commissioner, I intend to work with State Agencies to resolve and discuss issues in the belief that we can resolve controversies before proceeding to court.

U.S. SENATE,
Washington, DC, June 13, 1986.

Hon. DORCAS R. HARDY,
Assistant Secretary for Human Development Services, Department of Health and Human Services, 200 Independence Avenue SW., Washington, DC.

DEAR SECRETARY HARDY: On June 2, 1986, the U.S. Supreme Court unanimously affirmed the ruling of the Second Circuit Court of Appeals in *Bowen* v. *City of New York*. In that case, the plaintiffs argued, and the trial judge found, that from 1978 until 1983 the Social Security Administration had in place an unlawful, unpublished policy under which "countless" deserving claimants were denied benefits. The Social Security Administration did not appeal this finding of fact. It *did*, however, seek to narrow the impact of the court's findings by filing appeals arguing that the courts had no jurisdiction over claimants who had failed to exhaust their administrative remedies or who had failed to appeal an administrative decision within 60 days of receiving it.

The Supreme Court rejected these arguments, holding that claimants would not be held to the 60 day or exhaustion requirements because the Social Security Administration had followed a systemwide, unrevealed policy that was inconsistent in critically important ways with established regulations. The Court rebuked the Social Security Administration and the Department of Health and Human Services, stating that "The Secretary had the capability and the duty to prevent the illegal policy. . . The claimants here were denied the fair and neutral procedure required by the statute and regulations. . ." (slip op. p. 19).

In short, this may represent the first time in history in which the Supreme Court has had to *tell* the Social Security Administration what its responsibilities are to its millions of beneficiaries.

I understand that these events did not arise under your purview, and that you were not responsible for adopting the policies to which I so strongly object. Nevertheless, I hope that these recent events have instilled a sense of remorse within the Social Security Administration and of alarm on your part.

In your testimony before the Senate Finance Committee on May 15, stating one of your main goals at the Social Security Administration if confirmed as Commissioner, you said, "We must provide the best service across the country that we know how. The American people whose lives we touch deserve prompt, courteous, and efficient service, and fair and dignified treatment. I am committed to maintaining high standards in the quality and level of services."

Your stated commitment is admirable. However, I believe it is also at serious odds with the record of performance of the agency itself over the last few years. The Social Security Administration has harassed and hurt thousands of beneficiaries by placing numerous administrative and adjudicative obstacles between them and the benefits to which they are entitled by law. The Social Security Administration has also denied or terminated benefits to countless eligible claimants. In sum, the Social Security Administration's deliberate—if unstated—policies over the last five and a half years have given the agency the public image of being uncooperative and unsympathetic to the constituency it is required to serve.

Unfortunately, your preliminary answers have not resolved my serious doubts that these policies would continue under your administration. I would have hoped for more direct and forthright answers. For instance:

In response to one question, you state that only the Solicitor General can decide whether or not to appeal a particular case. Of course, the Social Security Administration has a role in this process. In what cases will the agency recommend that Justice pursue an appeal?

In response to another question (*Schisler* v. *Heckler*), you state that future jurisdictional arguments in class actions will have to be formulated in light of the City of New York opinion. This is an admirable sentiment, but does not answer the question of whether you will continue to urge that systemwide relief cannot be granted in class action cases.

Finally, in your preliminary response to my question on "non-acquiescence" (i.e., refusal to apply circuit court decisions to any case but that of an individual who brings suit), you state that any future non-acquiescence in circuit court decisions will be "rare." Does this mean that you will continue to refuse to apply circuit court decisions to any case except that of the individual who brought suit, without appealing them or without public notice? How, otherwise than by a ruling or regulation, would the Social Security Administration notify adjudicators and claimants, as well as their advocates, of a decision to refuse to acquiesce?

Madam Secretary, I appreciate the efforts made by you and your staff in responding to several of our questions thus far. I look forward to complete and satisfactory responses to all of my questions in the near future. As you know, on Wednesday I voted to report your nomination, but asked Chairman Packwood to postpone full Senate consideration pending your responses to these very serious concerns. He agreed to my request. Be assured that I am prepared to move forward with final consideration of your nomination if such answers are forthcoming, as I am sure they will be.

Sincerely,

DANIEL PATRICK MOYNIHAN.

DEPARTMENT OF HEALTH AND HUMAN RESOURCES, OFFICE OF HUMAN DEVELOPMENT SERVICES,
Washington, DC, June 16, 1986.

Hon. DANIEL PATRICK MOYNIHAN,
U.S. Senate,
Washington, DC.

DEAR SENATOR MOYNIHAN: Your recent questions and letter of June 13, 1986, raise legitimate concerns regarding administration of the disability insurance program. The program must be administered in a fair, humane and effective manner, and should be perceived by the public in the same way. As Social Security Commissioner, I will be committed to ensuring that those who are entitled to disability payments in accordance with Social Security procedures, policies and regulations promulgated openly and legally receive their benefit. Improper denial of benefits, any kind of illegal conduct, or lengthy delays are certainly not hallmarks of a well-administered program and are intolerable to me as a public servant. I believe better management techniques and approaches can be developed to curtail such practices.

Several different factors contributed to the outcome of *Bowen* v. *City of New York*: questionable policies, judgments about court appeals, and a lack of clear guidance. As I stated, I believe strongly that it is vital to ensure that the disability program be administered in a fair, humane, and consistent manner. This obligation extends not only to the relatively small number of high-profile cases that challenge SSA procedures, but also the thousands of more routine cases that SSA must consider each year.

I understand that policies such as the one cited in the City of New York court case have been corrected and steps are being taken to make whole anyone affected. I am committed to thorough enforcement and implementation of the recent decision. Previous questionable policy issues were addressed by the Congress in the debate and passage of the 1984 Disability Amendments; SSA staff has worked closely and diligently with Congressional staff as well as the States in the implementation of guidelines resulting from these amendments. I intend to continue these close working relationships and to fully implement the spirit and intent of the amendments.

With regard to the specific points you raised in your letter of June 13:

I believe that recommendations to the Department of Justice on appeal of court cases must be made on an individual basis after considering the potential effects on the claimants and the government. These recommendations will be made with the utmost concern for beneficiaries and with relevant decisions such as the City of New York in mind. I will not be in the business of appealing decisions for no reason but there will undoubtedly continue to be instances where I believe it to be in the best interest of the government and the Social Security program to pursue our legitimate point of view.

In regard to systemwide relief on class action cases, it will be my policy that systemwide relief will be granted to the class in accordance with any such court orders except in those unusual situations where an appeal or clarification is pursued.

In response to your question about acquiescence, I understand that the Congress did give guidance to SSA during the deliberations surrounding the Amendments. The Social Security Administration has made substantial changes in the decision-making process on appeals of court cases and compliance with circuit court decisions. While I would not want to say that I would never non-acquiesce, I will say that I believe it should be limited to very special circumstances. I can not provide a further clarification of "rare" at this time.

In addition, based on the 1984 amendments, I am optimistic that non-acquiescence will not be an issue as it has been in the past. Since 1985, SSA has issued 20 rul-

ings of acquiesence, and has not non-acquiesced in any Court of Appeals case.

In terms of notification, SSA will continue to issue Acquiescence Rulings in instances where circuit court rulings differ from national Social Security policy. These rulings advise adjudicators in States within the appropriate circuits to apply circuit court law. Relevant administrative law judge and Appeals Council opinions will be published as Social Security Rulings when appropriate. Non-acquiescence decisions, if any, will be communicated in the same manner, that is by ruling or regulation, whichever is more appropriate. Rulings are available to advocates and the public generally at any Social Security office. I believe these procedures for notification are fair and it is my understanding that they have been effective.

I intend to do all I can to avoid confrontational situation that evolved in the disability program prior to 1984 and will work with the Congress and the States to further the fair and uniform delivery of this critical social program.

Sincerely,

DORCAS R. HARDY,
Assistant Secretary
for Human Development Services.

Enclosure.

Senator MOYNIHAN.

Question: *There has been litigation in New York, as well as in other areas of the country, challenging the manner in which Step 2 determinations are made. Specifically, in Dixon v. Bowen, (589 F. Supp. 1784, aff'd, 785 F.2d 1102), Judge Lasker found, and the Second Circuit affirmed, that SSA had construed the determination of "severity" in a way which resulted in the illegal cutoff of thousands of disabled individuals. Instead of applying a minimal, threshold criterion—e.g., that someone with a cut on his finger does not have a severe impairment—SSA has required the claims adjudicators to make broader medical judgments regarding the nature of the impairment, while ignoring vocation factors such as age, education and work experience. Making those judgments at Step 2, instead of at Step 4 or 5, has, in violation of the statute and regulations, precluded the claimants from presenting proof regarding work experience and the demands of available jobs.*

What steps has SSA taken to ensure that Step 2 evaluations are made as intended by the regulations—i.e., that the only claims to be denied at this point are those which are based on impairments of clearly minimum severity? What steps will you take to prevent the abuses which Judge Lasker found occurred in New York? What steps are being taken to implement the relief ordered by Judge Lasker?

Answer: In October 1985, SSA published a ruling clarifying the "not severe" policy to emphasize that an impairment should be found not severe only if it has *no* more than a minimal impact on an individual's ability to perform any work related activities. In addition, this ruling was supplemented with additional guides for adjudicators such as a Program Circular to highlight the policy clarification and a training package for adjudicators. Also, on March 5, 1985, SSA published an interim final regulation to implement section 4 of P.L. 98-460 which requires that the combined effect of all impairments be considered, even if none considered separately would be found to be severe, in determining whether an individual's impairment(s) is severe.

There have been several sets of instructions issued to implement the Dixon orders. Potential class members whose claims had been denied were notified about the Dixon action on October 12, 1984. Potential class members whose benefits had been terminated were notified on a case-by-case basis between July 1984 and July 1985. Specifically, these individuals were notified that the Dixon order required SSA to reopen their claims. Additionally, those terminated were advised that their benefits would be reinstated pending the new review pursuant to the Dixon order. State agency and SSA adjudicators were instructed by teletype instructions on July 30, 1984, to stop using Step 2 as the basis for denial. Adjudicators were further advised to consider vocational factors in those claims where the individual was found unable to perform his or her past work.

Senator MOYNIHAN.

Question: *The district judge in Stieberger found that SSA has in the past and continues to ignore binding circuit cases in deciding claims for benefits. Does SSA intend to reopen the claims that were illegally denied under this policy? If not, why not? If not, does SSA intend to assert res judicata defenses against claimants who reapply?*

Answer: The Stieberger class action case is presently on appeal to the U.S. Court of Appeals for the Second Circuit and we are awaiting a decision. As the case now stands, SSA has not been required to reopen any cases in the class (which has been certified back to 1981 by the district court). In response to your question concerning the res judicata effect of prior administrative decisions, of course all individuals have the right under SSA regulations to file new applications for benefits at any time. SSA's normal policy set out in existing regulations provides that, in some situations, claimants who have filed new claims are barred from relitigating the question of their benefit entitlement if the new application pertains to a previous time period which has already been the subject of a prior decision. I would plan to abide by these longstanding administrative finality regulations absent a court order requiring the contrary.

Senator MOYNIHAN.

Question: *The district court judge in Stieberger also found that SSA had in place for several years a policy of reviewing internally the decisions of ALJs who had comparatively high rates of benefits allowances, which affected the decisional independence of the ALJs. Does SSA intend to reopen the claims that were illegally denied under this policy, If not, why not? If not, does SSA intend to assert res judicata defenses against claimants who reapply?*

Answer: The Social Security Administration does not agree with the assertion in this question that Judge Sand's decision in the Stieberger case "found that SSA('s) . . . policy of reviewing internally the decisions of ALJs who had comparatively high rates of benefit allowances . . . affected the decisional independence of the ALJs." After a lengthy analysis of the Bellmon review program (Slip op. 118-166), Judge Sand concluded that "(w)hether plaintiffs are likely to succeed on the merits of their challenge to Bellmon review as implemented prior to June, 1984, is an issue we need not decide." (Slip op. at 163) Therefore, SSA does not intend to reopen claims which were previously denied under the Bellmon review program since there is, in our view, no reason to do so. In regard to the application of res judicata, it would apply to persons who have received an unfavorable decision after Bellmon review and who reapply to the same extent that res judicata applies in any other circumstance, namely when the subsequent application is based on the same facts and raises the same issue or issues as were previously adjudicated.

Senator MOYNIHAN.

Question: *I note that SSA has reinstated the Continuing Disability Investigations, in which SSA re-examines claims to ensure the recipient of benefits is still entitled to them. In the past, the process engendered a series of lawsuits which resulted in findings that SSA terminated large numbers of claimants improperly—for instance, by failing to evaluate impairments in combination. What steps do you intend to take to prevent such abuses from recurring?*

Answer: I intend to continue implementation and administration of the 1984 Amendments, which clearly expressed the will of Congress as to how these problems should be corrected. For example, in regard to evaluation of impairments in combination, section 4 of the 1984 Amendments required that multiple impairments must be considered in deciding medical severity. Regulations to implement this provision were published on March 5, 1985.

The primary issue in litigation surrounding the continuing disability review (CDR) process was whether an individual's medical condition had to show improvement before benefits could be terminated. The 1984 Amendments mandated that medical improvement is generally the standard for continuing eligibility decisions, and section 2 of the amendments set forth the specific medical improvement review standard to be used in CDR's. Implementing regulations were published in December 1985. The revised criteria for evaluating mental disorders, as required by the same legislation, were published as regulations in August 1985. Finally, extensive training of disability adjudicators has been conducted, special quality review mechanisms have been developed, and detailed operating instructions have been issued to insure consistent and uniform application of the new policies.

Senator MOYNIHAN.

Question: *What position is SSA taking with respect to Marcus v. Heckler, presently pending in Chicago, in which the failure to make such medical equivalence findings is being challenged?*

Answer: SSA has not yet taken a position. The class action complaint in the Marcus case was filed in March 1985. The district court in October 1985 certified a class consisting of residents of Illinois. The government at this time is responding to discovery requests filed by the plaintiffs. Pending completion of discovery, the Federal government is in the process of developing its litigation position in Marcus.

Senator MOYNIHAN.

Question: *SSA has asserted in its appeals to the Second Circuit in Schisler and Stieberger that it does not non-acquiesce in the Second Circuit's treating physician rule, as set out in Bluvband v. Heckler. (1) Will you instruct all disability claims adjudicators in the Second Circuit states to follow the Bluvband rule? (2) Will you instruct all disability claims adjudicators in the country to comply with relevant circuit court precedent? (3) will you inform them of the relevant precedent by providing copies of relevant opinions of ALJs and the Appeals Council, and informing adjudicators at the state agencies, of their contents and implications?*

Answer: (1) Yes, in accordance with the district court's order in Stieberger, SSA has

instructed all adjudicators in New York State to follow the Second Circuit's treating physician rule, as set out in the Bluvband case. However, in regard to Schisler, there is an apparent discrepancy between the Schisler and Stieberger cases in the rules set out by the Second Circuit. Therefore, SSA is requesting the Second Circuit to rehear Schisler and to provide a consistent rule for all adjudicators in the Second Circuit.

(2) SSA is issuing Acquiescence Rulings in instances where circuit court rulings differ from national Social Security policy. These rulings advise adjudicators in States within the appropriate circuits to apply circuit court law.

(3) Relevant administrative law judge and Appeals Council opinions are published as Social Security Rulings when appropriate.

Senator MOYNIHAN.

Question: *The reading the Second Circuit panel deciding Schisler gave the Bluvband opinion is slightly different from the reading of Judge Sand in the Stieberger order. Which will you follow while the Stieberger appeal is pending in the Second Circuit?*

Answer: The district court's order in Stieberger—to apply the Bluvband treating physician rule—applies to all residents of New York State and requires that all claims for disability benefits decided on and after the date of the order be adjudicated under specific instructions provided in the court's order. Operating instructions, consistent with the Stieberger decision and reviewed by attorneys for the plaintiffs in that case, have been issued by SSA to persons adjudicating disability claims filed by residents of New York State. We will continue to comply with the district court's order in Stieberger unless it is set aside or modified as a result of the government's pending appeal. We have not applied the decision of the Second Circuit in Schisler pending final action on the petition for rehearing.●

NAUM & INNA MEIMAN IN PAIN

● Mr. SIMON. Mr. President, Naum and Inna Meiman are suffering. The Meimans are a Soviet couple who have applied to emigrate to Israel numerous times and have always been refused.

Inna is a woman in pain. She is critically ill with cancer. Although her cancer is treatable according to Western medical authorities, the Soviet doctors have told her there is nothing more they can or will do. Time is running out for Inna. She must have the advanced medical treatment being offered to her in the West.

Inna also is in pain because she sees what is happening to her husband. Naum has experienced harassment by Soviet authorities for over 10 years. He lost his job after first applying for a visa. Their apartment has been ransacked, and their telephone has been cut off. They have been isolated from society.

It is time to allow doctors in the West to treat Inna. There is no reason this sick and elderly couple should be denied their basic human rights.

I urge the Soviet authorities to allow the Meimans to go to Israel.●

ORDERS FOR MONDAY, JUNE 23, 1986

Mr. DOLE. Mr. President, I ask unanimous consent that when the Senate reconvenes on Monday, June 23, the reading of the Journal be dispensed with; that no resolutions come over under the rule; that the call of the calendar be dispensed with; that following the recognition of the two leaders under the standing order, there be special orders in favor of Senators HATFIELD, PROXMIRE, GORE, and MELCHER for not to exceed 5 minutes each, to be followed by a period for the transaction of routine morning business, not to extend beyond 1 p.m., with Senators permitted to speak therein for not more than 5 minutes each; provided, further, that the morning hour be deemed to have expired.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. DOLE. Mr. President, the Senate will convene at 12 noon on Monday.

The leaders will have 10 minutes each.

There will be special orders in favor of Senators HATFIELD, PROXMIRE, GORE, and MELCHER for not to exceed 5 minutes each.

There will be routine morning business not to extend beyond 1 p.m., with Senators permitted to speak therein for not more than 5 minutes each.

The Senate will then resume consideration of H.R. 3838. No rollcall votes will occur during Monday's session.

We have tried to avoid a last-minute rush on Tuesday, and Members should be prepared to indicate that they are not going to offer their amendments or be here to offer their amendments preferably on Monday, because I know that the distinguished chairman of the committee has a rather pressing engagement and will leave town about 6:30 on Tuesday. If we back up everything on Tuesday and start voting on Tuesday, we could be around here 7, 8, or 9 o'clock, waiting to dispose of the bill.

I know that my collegues will cooperate with the managers, and we can dispose of most of the amendments on Monday.

I also wish to indicate what will happen after disposition of the tax bill.

There will be a supplemental appropriations conference report; Calendar No. 666, S. 2507, the housing billl; Calendar No. 636, S. 2045, the Commodity Future Trading Act; Calendar No. 655, H.R. 4151, diplomatic security bill; the House message to accompany House Joint Resolution 652, FHA temporary extension; Executive nomination of Daniel Manion, to be U.S. Circuit Judge.

□ 1730

So I think with those few items, we ought to be able to finish our work hopefully by Thursday; if not, on Friday, June 27.

There will be a number of rollcall votes Tuesday on the tax bill and I would assume rollcall votes Wednesday, Thursday, and Friday, unless we can complete our work on Thursday. Then there would not be a Friday session.

I am reminded also that on Tuesday the first vote will be 15 minutes and all subsequent votes will be 10 minutes each if in fact the votes have been stacked.

ADJOURNMENT UNTIL MONDAY, JUNE 23, 1986

Mr. DOLE. Mr. President, there being no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until the hour of 12 noon on Monday, June 23, 1986.

The motion was agreed to, and at 5:29 p.m., the Senate adjourned until Monday, June 23, 1986, at 12 noon.

NOMINATIONS

Executive nominations received by the Senate June 20, 1986:

THE JUDICIARY

William H. Rehnquist, of Virginia, to be Chief Justice of the United States.

DEPARTMENT OF JUSTICE

Arnold I. Burns, of New York, to be Deputy Attorney General, vice D. Lowell Jensen, resigning.

MERIT SYSTEMS PROTECTION BOARD

Mary F. Wieseman, of Maryland, to be special counsel of the Merit Systems Protection Board for a term of 5 years, vice K. William O'Connor, resigned.

IN THE ARMY

The following officers for appointment as permanent professors at the U.S. Military Academy in accordance with the provisions of title 10, United States Code, section 4333:

Col. Frank R. Giordano, [redacted]
Lt. Col. Raymond J. Winkel, [redacted]

IN THE ARMY

The following-named officer for permanent promotion in the U.S. Army in accordance with the appropriate provisions of title 10, United States Code, sections 624 and 628:

To be lieutenant colonel

John D. Black, [redacted]

JUDGE ADVOCATE GENERAL'S CORPS

To be lieutenant colonel

Michael J. Dicharry, [redacted]

MEDICAL SERVICES CORPS

To be lieutenant colonel

Edmund L. Davis, [redacted]

IN THE NAVY

The following-named commanders of the Reserve of the U.S. Navy for permanent promotion to the grade of Captain in the staff corps, as indicated, pursuant to the

provisions of title 10, United States Code, section 5912:

MEDICAL CORPS

Andrus, Peter L.
Ang, Elsa Penaranda
Antosek, Louis E.
Bartley, Tony C.
Bayne, Cary Gresham
Bellinger, Creighton G.
Bond, William R., Jr.
Boyer, Michael F.
Brown, Lansing Eugene
Campaigne, Robert J.
Chabala, James V.
Chalkley, Milton Deroha
Cilento, Bartley Gray
Cruz, Anatolio Benedict
Dansak, Daniel A.
Dolan, Michael P.
Duplis, Robert M.
Felix, Walter Robert, Jr.
Felthous, Alan R.
Flynn, Thomas J.
Gaffney, Jon W.
Geraci, Robert P.
Greer, Harry A., Jr.
Hacker, Philip K.
Hall, Arthur Laris
Hannigan, Edward Vincen
Harkness, James Albert
Harman, Richard Lee
Hendricks, Fredericks BA.
Hierlwimmer, Ulf Rainer
Hintz, Brace Leland
Hitt, Curtis Lee
Holden, Richard Theodor
Hooper, Richard Edmund
Horn, John Russell
Howard, Arthur Richard
Johnson, Dennis Lee
Johnston, Charles Edgar
Judman, Allen Herbert
Katz, Arnold Elliott
Kelleher, Kenneth S., Jr.
Kim, Thomas Hongsuh
Konerding, Karsten Fred
Laughlin, James E.
Lee, Wayland Sherrod
Lloyd, Douglas S.
Lux, Glenn A.
Lwin, Tint
Lynch, William James
Mabry, Nicholas Rivero
Malstrom, Robert H.
Martin, John Wesley, III
McQuarrie, Irvine Gray
Miller, Richard Clayton
Minihan, Patrick T.
Moreland, Robert Hamilt
Moser, Ronald Joseph
Nettles, Willard H., Jr.
Newton, Jerry Albrecht
Noble, Robert Gordon
Nolan, Peter Stanley
Noonan, Bruce Douglas
Nyboer, Jan Holland
O'Donnell, James Kevin J.
O'Neil, Bernerd L.
Payton, Gladstone A.
Probst, Theodore G.
Pruet, Charles Wilburn
Reiner, Carl Ernest
Rentz, Turner Wayne, Jr.
Reynolds, Richard James
Richardson, Douglas Sco
Risser, Thomas A.
Robertson, Lawrence
Rodriguez, Alexander Ru
Runnels, John Benton
Russo, Raymond Michael
Ryan, William John
Sargent, John H.
Schultz, Thomas Aaron
Scoles, Peter V.
Seif, Rahmat Mazaheri
Shenefelt, Philip David
Shockley, John R., Jr.
Skuza, John J.
Splinter, Raymond J.
Stark, Randolph Wilkins
Stevenson, Eugene Octav
Stone, Ronald Kaye
Tizard, Gary T.
Umfrid, Richard Paul, II
Vance, Donald Alton
Vanslyke, Gary
Wagner, Timothy Ronald
Ware, Lewis Leonard, Jr.
Wei, Wellington Cheng H.
Weinberg, Thomas Jakle
Whitfield, Richard Wris
Widman, Larry A.
Wilson, George Rice, III
Wolkoff, Aaron S.
Zekos, Nicholas V.
Zimmerman, Richard Carl
Zuromskis, Peter J.

SUPPLY CORPS

Babb, Robert Masters, Jr.
Borst, Richard Earl
Brainerd, Robert Phelps, Jr.
Cookson, John Phillipe
Deangelis, Joseph Thomas, Jr.
Delfs, Hugh Neilson
Dorsey, Lewis George, III
Fox, James Franklin
Foy, Norman Frank
Free, Willard Dean
Free, William Thomas, Jr.
Gondring, John Arnold
Kelley, John Robert, Jr.
Maitland, James Raisbeck
Mangin, Garrett Nicholas, II
McClintock, William R., Jr.
McDonnell, Brian Leo
McTavish, Thomas Harold
Meehan, Clement Thomas, Jr.
Mortsolf, Larry Alonzo
Phillip, John William
Pitman, John Joseph
Rahn, Stanley Arnold
Richardson, Daniel Gene
Running, Richard Barth
Semet, Robert John
Sherrill, Robert Minnis
Shirley, Joseph Garrison
Siegel, Gary
Strack, Beetem Harry, Jr.
Winter, Wilburn Jackson, Jr.

SUPPLY CORPS (TAR)

Bunten, David R.
Grumme, Ronald W.
Kalbfleisch, Larry Leroy
Sutherland, Michael T.

CHAPLAIN CORPS

Altrock, Stanley Charles
Elliott, Charles Keith
Jordan, Charles Frank, Jr.
Londoner, Carrol Alton
McConnell, Larry Adams
Rock, Stanley Arthur
Whiteside, James D.
Will, William Ashley, Jr.

CIVIL ENGINEER CORPS

Bailey, Robert Norman
Branch, Thomas Livingston
Charvat, William Charles
Conti, Hugo
Driscoll, Francis John
Evans, Frank Carpenter
Gaither, Thomas Alvin
Kenny, Louis Allen
Persson, Vernon Hyle
Poling, Russell Leo, Jr.
Riddle, Gerald Donald
Smith, Ewart Brian
Tamaribuchi, Satoru
Tuthill, William Lee
Ward, Roderic Charles
Warner, John Richard

JUDGE ADVOCATE GENERAL'S CORPS

Andrews, Robert Dana, Jr.
Arbuckle, David L.
Barr, William Siau
Bell, Robert Lamar
Bigler, John Edward, Jr.
Burson, John Hosler
Callahan, James Byrne
Coyle, Arlen Benson
Cusick, Robert Irwin, Jr.
Eppinger, Frank Newton
Golub, Howard Victor
Gorham, James Samuel, II
Hannan, William Everett
Harris, James Harold, II
Howell, Thomas Jackson
Kettlewell, Charles Wil
Lang, Howard Max
Ludwick, Steven William
Mallett, Donald Arthur
McCann, David Paul
McMahon, James Brian
Menefee, Curtis Hall Pi
O'Conner, James Joseph
Poch, Thomas Bernhard
Ross, Edward Michael
Rowley, Robert Deane, Jr.
Schmitz, Dennis Ralph
Smith, Lee Moyer
Southern, Samuel Ogburn
Stella, Daniel Francis
Sullivan, Paul Michael
Tomlin, James Milton
Welch, David Dickey
Wysocki, Gerald Stanley

DENTAL CORPS

Chismarich, Stephen Ric
Hensley, Larry Donald
Laubach, William Stanle
Madden, Barry Eugene
Piotrowski, Edmund Loui
Ward, Roger Brooks

MEDICAL SERVICE CORPS

Clark, Emerson Elon
Doty, John M.
Hayes, Carol Edith
Johnson, William Warren
Mast, Harold James
McGlothlen, Gerald Orri
Perry, Larry Joe
Roberts, Michael Dean

NURSE CORPS

Cummins, Joan

IN THE NAVY

The following-named lieutenant commanders of the Reserve of the U.S. Navy for permanent promotion to the grade of commander in the staff corps, as indicated, pursuant to the provisions of title 10, United States Code, section 5912:

MEDICAL CORPS

Aarstad, Robert Frederic
Achilles, Jackson T.
Almojera, Belle Buccat
Altaffer, Lawrence F., II
Anderson, Charles H., Jr.
Anderson, Eli T.
Arias, Angelito Mercado
Arrowsmith, Daniel Lee
Arroyo, Julio Cesar
Atkinson, Maynard Penelo
Babin, Richard Weyro
Barnhouse, Dean Brooks
Baxley, Robert Sherwood
Bean, Howard C., Jr.
Bearden, James D., III
Beck, Robert James

Bhattacharya, Arjun
Birch, Alexander Anthon
Blake, Bennie Carrol
Bland, Kirby I.
Bolet, Celso Guicoechea
Borum, Stanley E.
Bryant, John Patrick
Buckley, Vernon Carlisl
Callan, Daniel J.
Camiel, Edwin Peter, Jr.
Clark, David Alan
Cobham, Ian Graham
Cochran, Thomas Preston
Cole, Francis H., Jr.
Conley, Gene Raymond
Corbett, Paul Bowman
Constantino, John Michae
Craig, James P.
Davis, Donna Patricia
Davis, Gary R.
Depaulo, Paul S.
Dewalt, John Duffy
Diaz, Carlos Richardo
Doctor, Marcellene Suza
Domino, Terry Gayle
Estlund, Gregory John
Estrera, Luis Gallo, Jr.
Fern, Peter E.
Ferris, John A., III
Ferry, Francis Thomas
Fink, Mitchell Phillip
Fischer, Leonard Stephe
Foster, Robert Stephen
Gonzalez, Luis Roberto
Gordon, Antonio Mario R.
Granger, David Philip
Green, George
Harkness, Charles L.
Harpold, Gary J.
Hershman, Jerald Bruce
Higer, Ralph William
Hubbell, David Bayles
Hueston, Allen L.
James, Lewis P.
Janik, Daniel Scott
Jones, Frederick Dougla
Kim, Daesong
Kinder, Richard Alan
King, John Wesley
Klatt, Richard W.
Kong, Dyoung
Kornberg, Markus
Kram, Barry William
Kuber, Matthew T.
Langston, Robert H.
Lee, Barbara Jean
Leonard, Frank A., II
Lesko, Ronald Michael
Lewis, Donald R.
Lewis, Richard H.
Liebman, William Martin
Limjoco, Uriel Romey
Longanecker, Stanton L.
Longley, Richard Samuel
Loomis, Karl French
Louie, Eric Kuowei
Lowe, Edward Hatfield J.
Lundy, Eugene
Macfee, Michael Scott
Malone, James Charles J.
Margel, Stephen Edward
Marks, Charles Wesley
Martin, James Peter
McAllister, Charles J.
McCormack, Percival D.
McDonald, Michael White
McFadden, Paul Michael
Menon, Venu Gopal
Millbern, Stephen Micha
Morin, Christopher J.
Murphy, Charles Evans J.
Murphy, Patrick J.
Musliner, Thomas Allen
Nader, Daniel A.
Narut, Noel Francis
Neville, Pat Finley
Nevils, Bobby Gene
Novak, Steve
Nuar, Frank Labib
Nyberg, Leroy Milton, Jr.
O'Dell, Michael Lynn
O'Hara, Kathy M.
Olden, Michael Rogers
Olsson, Jay E.
Opfer, Walter D.
Otten, Edward Joseph
Paulk, Wilford E.
Pease, Rodney D.
Pineda, Rodolfo Liongco
Postel, Joachim Michael
Prentice, Georgia Rae
Prough, Donald Sanderson
Read, Edward J., Jr.
Reed, Kenneth Stephen
Rennert, Klaus Dieter
Reynolds, Gary Lynn
Rhule, Ronald Lloyd
Riether, Robert Denny
Riggs, Jack Edward
Riveraalsina, Manuel En
Roberts, Jerry M.
Roper, Ronald Phillip
Ross, William A.J.
Ruggles, Kevin H.
Rutledge, Kenneth Allen
Ryals, Paula A.
Sacha, Robert Frank
Sakakini, George C.
Sanders, Jerald G.
Sansone, Vincent Robert
Sarmiento, Joseph J.
Schueppert, Thomas W.
Segarravidal, Juan Baut
Silverberg, Michael Slo
Simms, Ernest Lee
Smith, Duret Stanford
Solomon, Jonathan Gersh
Stevens, Ward W., Jr.
Stewart, Charles R.
Strock, Sylvia S.
Sutton, Larry D.
Taylor, William Henry J.
Thiringer, Sheridan A.
Treadwell, Kenneth, Jr.
Tucker, Warren G.
Tyler, John Robert
Vezeridis, Michael P.
Vidacovich, Richard Paul
Vorhoff, Gilbert Harold
Wallace, Arnold Doyle
Wallace, William Wilson
Walsh, James A.
Way, Brady Cole
White, Charles Edward
White, Frederick Eugene
Wiberg, John Lawrence
Willenberg, Natalie Ann
Williamson, John Charle
Woods, James DeWitt
Young, Jeffrey Milton

SUPPLY CORPS

Aubrey, Norbert Eugene, III
Benaroya, Alfred R.
Bjerke, Ardine Leslie
Bordenave, Lee Joseph
Brockman, Willie Cal
Butt, Arthur Leroy
Byrd, Harry William
Cackowski, Theodore Robert
Capron, Donald Lee
Carmody, Bert Martin
Chamberlain, William Joseph
Clamurro, Gary David
Dennis, David Arthur
Desgalier, William Marc
Egan, Richard Gookin, Jr.
Ehmcke, Lance David
Epstein, David Shalom
Erickson, Ivan Leroy
Fennell, Walter Francis, Jr.
Fischer, Charles E.
Furst, Barbara Scott
Gillum, Virgil David
Hanson, Thomas Kevin
Heathers, Sherman Garner
Hills, Gary Lee
Holmes, Robert C.
Hunt, Carl Lavern
Johnson, Robert Bruce, II
Jones, Douglas Edward
Keyserling, Michael S.
Klingelberger, Mary Clare
Kroon, George Douglas
Lancaster, Robert Lee
Leather, John E.
Long, Wayne Richard
Lottes, William Russell, II
McLaughlin, Sammy Selden
Mills, William Taft, Jr.
Moffatt, Richard Andrew, Jr.
Montgomery, John Bradley
Nixon, Dennis Wayne
O'Connell, Matthew Peter
Ortega, Pete Ruben
Pecuch, Ramon
Preston, Vernon Leroy
Price, Edward Lowry
Prudhomme, Charles Lloyd
Reimann, William John
Righi, Michael Louis
Ross, Charles Anthony
Sacilotto, Alessandro France
Schaap, Steven Glenn
Schowalter, Mark Wilbert
Silva, William Leonard
Snider, Jack Dean
Stallings, Charlie Louis
Stawitz, William Ernest
Stephan, Richard John
Taber, Alan Thomas
Thompson, Wayne Garfield, Jr.
Tom, Lyle Kim Ung
Turke, Stephen Joseph
Welch, Peter Byerrum
West, William Maurice
Williams, Charles Arthur

SUPPLY CORPS (TAR)

Buck, Thomas Charles
Hebrink, Larry Dean
Johnson, Gary Richard
Monkowski, David B.

CHAPLAIN CORPS

Allen, Gary Richard
Black, Robert A.
Brenner, Peter Rolf Kalk
Grey, James Chester
Kaplan, Allen Stanford
McGettrick, Garvin
Moulketis, James Chris
Robinson, Harold Leonard
Rock, Stephen Brennan
Sortland, Egil Arthur

CIVIL ENGINEER CORPS

Alexander, Al Gary, Jr.
Andvik, Brian Karl
Batdorf, Ronald Neal
Blume, Russel Elmer
Brasfeild, Charles Wesley
Costello, Donald Haryford, Jr.
Davy, Eric H.
Fressilli, Thomas Frank
Gordanier, Charles Bert
Jewell, Charles Douglas. II
Johnson, Frank Ralph, Jr.
Johnson, Richard Curtis
Keller, William Bryan
Mayer, Robert Hall, Jr.
McCabe, William David, Jr.
McKay, Kenneth P.
Miles, Paul Avron

Moir, Gene Willis
Naab, Earl Frederick
Nylen, Sven T.
Reid, Thomas Ray, II
Rickard, Carl Edward
Sheppard, David Eugene
Smith, Loren Woodrow
Spencer, Lon Charles
Uzarski, Donald R.
Vickerman, Melville John, Jr.
Ward, Carter Studdert
Ward, Jack Gerald

JUDGE ADVOCATE GENERAL'S CORPS

Bailey, Walter Marshall
Cooper, David Jackson J.
Eddy, Richard W., Jr.
Fisher, Aimee Frances
Hiller, John Leslie
Leary, Arthur, III
Leatherman, John B., Jr.
Peavey, Michael Pendext
Rude, James W.
Smith, Kerschiel Doniva
Teigen, Henry C.
Vaughn, Anthony Wayne
Wright, Robert Clyde

DENTAL CORPS

Akers, Gregory S.
Alvis, Stephen G.
Bentley, Geoffrey D.
Butler, Milton Forest
Christensen, John B.
Elstner, Earl Thomas, Jr.
Frank, Timothy Michael
Friedland, Gary Jay
Gilio, Douglas A.
Hammond, Frederick W.
Harrison, Glenn Alan
Heilman, Bruce C.
Heineman, Jeffrey Carly
Horton, Edward C., Jr.
Jardin, Ronald E.
King, William A.
Kramer, Kevin Joseph
Krause, Kerry Jack
Larson, Gilbert H., III
Lewis, Thomas MacArthur
Mason, Craig Alan
Mathews, William M.
Mayer, Joseph Paul, Jr.
Meharra, Ernest William
Montgomery, Alan B.
Nickell, Darryl C.
Notario, Perfecto F., Jr.
Pope, Bruce Michael
Roberts, William Louis
Robinson, Milton Alvin
Roberts, William Louis
Robinson, Milton Alvin
Rocklin, Michael F.
Rundbaken, Roger P.
Schultz, Louis David
Smith, Paul Bridges, Jr.
Strunk, William Milton
Tiner, Billy Don
Toney, Charles E.
Topcik, Philip L.
Wanders, Joseph A.
Watkins, James D.
Weaver, Peter M.
Weinberg, Melvin Stuart
Wilcox, Dale E.
Wilsted, Neal K.

MEDICAL SERVICE CORPS

Abrams, James Lloyd
Baesman, Robert K.
Bennett, James Douglas
Dey, Dennis Raymond
Doppelheuer, Sandra Bin
Durflinger, Don Alan
Fisher, Joseph Carroll
Heublein, Robert Martin
Hudson, Henry Alexander
Johnson, Mark F.
Jones, Perry Thompson
Lewis, James Hiller
McDowall, Mark T.
Peksens, Richard Karl
Simon, Jon Stanley
Vartan, Karen Stephanie
Winkel, Bernard Martin

NURSE CORPS

Barker, Elizabeth R.
Bland, Annie R.
Brown, Kathryn Marie
Cioffi, Nancy Louise
Crowley, Diane R.
Donegan, Janet M.
Dunkel, Mary E.
Dyckman, Julia Y.
Gawbill, Barbara Jane
Hager, Jo E.
Harmeyer, Karen A.
Hightower, Arlene Janic
Holz, Jane Ruth
Hubson, Kathleen M.
Johnson, Mary Martha
Ketter, Diane R.
Kingen, Dorlee D.
Knox, Sherryl L.
Krause, Lois E.
Noll, Kathleen A.
Riddiough, Peggy L.
Self, Peggy Ruth
Vrabel, Crucelina Ferna
Ward, Penelope H.
Wettach, Rose A.
Yonts, Linda M.

IN THE NAVY

The following-named lieutenant commanders of the Reserve of the U.S. Navy for permanent promotion to the grade of commander in the line, in the competitive category as indicated, pursuant to the provisions of title 10, United States Code, section 5912:

UNRESTRICTED LINE OFFICERS

Abeles, Jon Christian
Abesilla, Jimmie
Admas, George Francis, Jr.
Adams, Parks Glenn, Jr.
Adkisson, John Felton
Aires, James William, II
Alder, Edgar Andrew
Aleks, Richard Thomas
Aleshire, Elroy Wayne
Aljets, Carol Duckworth
Aller, Benard Morris
Alley, Stephen D.
Amundson, Lee D.
Anderson, Larry Edward
Andrus, James Robert
Aninowsky, William Edward
Archibald, Gary T.
Arellanes, Jimmy
Arnold, Don Louis
Ashby, Kenneth Wendell
Aubrey, Charles Alton, Jr.
Austin, Kenneth Burdette, Jr.
Axtell, Stephen P.
Ayers, Peter Osgood
Bailey, William C.
Banks, Wilie B., Jr.
Barber, David Hughes
Barnett, William Patrick
Beard, Robert Adrian
Beason, John Charles
Beatty, Daniel Anthony
Beck, Scott Arthur
Benefield, Robert B.
Benham, Webster Lance, III
Bennett, George Franklin S.
Benoit, James Edward
Bentley, Clyde Franklin, Jr.
Berard, Raymond William
Bergersen, Leonard L.
Bernander, Paul Robert
Bernie, Ronald John
Biller, John Phillip
Bishop, Theodore Andrew
Bizic, Larry Stephen
Blakely, Robert Alan
Blunt, Paul Frederick
Boardman, John Frederick
Boguski, Alan John
Bollin, John Curtiss
Borland, John
Boulden, Walter Raleigh, Jr.
Bowes, David Robert
Boy, David Clarke, III
Boyd, James Alexander
Brady, Edward Matthew
Brandt, Edward Lee
Brannon, Gordon Dale
Branum, James David
Bray, Michael Allen
Breese, Thomas Robert
Brennan, Michael Francis
Bridgeford, Joseph Vincent
Brilla, Richard Charles
Brisbin, Bradford Alan
Brock, Edward Benjamin, Jr.
Brown, Bruce Allan
Brown, Douglas Leo
Brown, Jeffrey Charles
Brown, John M.
Brown, Larry Alan
Brown, Richard Wayne
Brumbaugh, David Lindsay
Bruninghaus, Ronald Paul
Buffington, Donald Keith, Jr.
Buresh, Jon A.
Burlingame, Charles Frank
Burnett, Douglas Randolph
Burnham, Robert Lewis
Buschbach, Thomas Richard
Bushey, William Michael
Butzon, Jonathan Hans
Byczek, John Albert
Byrne, John H., III
Cadwallader, William Louis P.
Calabro, Arthur Donald
Caldwell, Daniel Eugene, Jr.
Caldwell, Kenneth W.
Cannan, Stephen M.
Carolus, Jay Marvin
Cartier, David Alan
Caswell, David Lewis
Cavaliere, Louis Angelo, Jr.
Cawthon, Franklin
Cazares, David Humberto
Chaloupka, Melvin Glenn
Charlton, Dennis John
Chewning, Jeffrey Lynn
Clark, Marfred Charles
Clark, Michael Bernard
Clarkin, Thomas Robert, Jr.
Claussen, David Michael
Clements, Joseph E.
Clemons, James Durant
Coffey, Jeffrey Grant
Cole, Iven Martin
Coleman, Alfred Byrdell, Jr.
Coleman, David Scott
Collis, Harry Herbert
Conaway, George Timlin, Jr.
Cook, James Lee
Cooper, Richard Wayne, II
Cooper, Robert Jac
Cousins, Avery Banks, III
Cramer, Gary Ray
Crawford, Michael Alan
Crompton, David Robert
Crossen, James Robert
Crowell, Michael Alexander
Cumminger, Frederick T., III
Cummingham, Richard McHenry
Curt, Robert Paul
Cusick, Alan Philip, Jr.
Cymerman, Zbigniew Adam
Dalby, Brian Shearer

Dalton, Mary Ann
Dajme, James Walter
Davidson, Edward Martin
Davis, Gerald Owen
Davis, Mark Eugene
Davis, Robert Milehame, Jr.
Dean, John Wayne
Dean, Marvin Earl
Deaugustinis, William Cheste
Degnan, William Joseph, Jr.
Degolian, William Dufour
Delair, Louis, Jr.
Delatorre, Jose Luis
Delong, Howard James
Desjardins, Roland Paul
Detwiler, Richard Morris
Dietrich, Ronald Lee
Dimmette, Joel Powell, Jr.
Disse, Robert Phillip, Jr.
Divine, Robert Balaine
Dodge, John Franklin
Doesburg, James Martin
Donohue, Richard Harney
Donovan, Michael D.
Doty, Eugene Leroy
Doyle, Michael Thomas
Drake, Thomas James
Drawneck, Richard Allen
Drennon, Stephen Saunders
Driscoll, Edmund Francis, II
Duffett, Neale Arthur
Dunham, Earl Charles
Dunlap, Billy Wayne
Durham, Douglas Oneal
Dye, John Dennis
Edson, James Marshall
Ellefson, David Andrew
Elliott, James Charles
Erbele, Douglas James
Erickson, Russell H.
Esposito, Vincent John, III
Eutermoser, Jeffrey Lee
Everett, Terrell Alton
Fadas, Charles Michael
Falgoust, David Edward
Farwell, Bruce Kircher
Ferris, Mead Boykin, Jr.
Fink, George Erwin
Finney, Robert Charles
Fiola, Frederic Joseph, Jr.
Fisher, John Lester, Jr.
Fitch, Michael Frederick
Fleming, John Boyd, Jr.
Flode, John William, Jr.
Forrest, Benjamin Franklin J.
Foster, Michael Sean
Foust, John Terrence
Franklin, Gerald W.
Frantz, Joseph Claude
Fratello, Thomas James
Frederickson, James Michael
Friberg, David Verne
Gabler, Barry Davall
Gaddie, Paul R.
Galenian, Gregory John
Gandy, Russell E.
Garcia, Linda Lou
Garifalos, James Ernest, II
Garland, Gary William
Gemmill, David G.
Gilchrist, David McIntosh, Jr.
Giles, Lawson Sylvester
Gillis, Roderick Cooper
Gillmor, William Sims, Jr.
Ginn, Gary Christopher
Gladwin, William Joseph, Jr.
Glassberg, Arnold Michael
Gloss, Gregory Coford
Gomez, Lawrence Ted
Gorman, Timothy J.
Grabeel, Dennis Craig
Grace, William Joseph
Graham, William Lambert
Grau, David G.
Gray, Gary John
Gray, Richard Henry
Greene, Edith Clyne
Griffin, Dorsey Wycherly, II
Griffith, Robert David
Griswold, Henry Calhoun
Gross, Edmund Samuel
Goebert, David Ralph
Guinther, John Mark
Gurry, Frank Henry, Jr.
Gustafson, John Edward
Haagensen, Brian C.
Hadley, Karl Austin
Hall, Harold Lee, Jr.
Hall, James Edward
Hall, Jeffrey, F.
Hall, William Robert
Halligan, Michael Joseph
Halvis, James
Hambleton, Michael Gilbert
Hamelin, Gregory Raymond
Hamilton, James A.
Hamilton, Robert Lane
Hammerstrom, John Guynes
Hammett, Charles Willdoughby
Hanley, John Thomas, Jr.
Hansen, Ronald Russell
Hanson, Marshall Alan
Hardin, Charles Gerald, Jr.
Harding, Robert William
Hare, Joseph Coleman
Harker, Ward W. III
Harland, Joseph A.
Harrer, Mark Halsey
Harrington, Michael Joseph
Harris, Gordon Frank
Harris, Vascar Godfrey
Harrison, Robert Wayne
Hartsfield, Francis S., III
Hartz, Kenneth Miles
Healy, Edward Robert
Heath, Christopher Eugene
Hebert, William Alexander
Heller, Leighton James, Jr.
Hemphill, William Bruce
Henderson, Breck Wenger
Hendricks, George E.
Henke, Charles Barton
Henry, Richard James
Hernandez, Fernando Antonio
Herzog, Martin Douglas
Hill, Steven
Himler, Marsha Sue
Hines, James Michael
Hinnenkamp, Richard Albert
Hipp, Larkin Dale
Hirsch, Gerald Richard
Hitpas, Henry Richard, II
Hochman, James Alan
Hocking, John Leslie
Hogue, Wayne Dennis
Holley, Paul Edward, Jr.
Holz, Lloyd Nelson
Hooks, John Robert
Hoppus, Michael Leemon
Horney, Nicholas Fletcher
Horton, William Grady
Hoskins, Michael Henry
Hover, Darrell Warren
Howes, Sandra Louise Rustuen
Howlett, James Whitcomb
Hubbard, Charles JA
Hubbard, William Reymann
Hughes, Richard William
Hunter, Ronald Eugene
Huntley, Larry Ted
Hussong, Joseph Bentley, Jr.
Ihrig, Stephen Duff
Jacobs, Jan C.
Jaggers, David Howell
James, John Wells, IV
Jarvis, David Shiras
Jensen, Andrew Alfred
Jessup, David Henry
Jindrich, Charles Anthony
Johnsen, David Willard, IV
Johnson, Arthur Gary
Johnson, Charles Burton, Jr.
Johnson, Gerald Bruce
Johnson, Johnny Wayne
Johnson, Larry Charles
Johnston, Charles Delose
Johnston, Mary Ann
Jones, Franklin Michael
Jones, Lawrence Eugene
Jones, Walter Earl
Jordan, Dwight Stevens
Jordan, Robert York
Josendale, Peter Barclay
Kaplan, Sanford Sandy
Kaskin, Jonathan David
Kaylor, Jefferson Daniel, Jr.
Kearney, John Michael
Keaveny, Patrick John
Kelly, Mark Cephas
Kennedy, William George
Kessler, James Michael
Kierstead, Richard Ashton
Kiker, William Bruce
King, Manton Ambrose
King, Thomas Sydney
Kinnear, Neil Tillman, III
Kirkland, Douglas Ingraham
Klink, Stephen Colby
Knight, John Ross
Knos, Carl Tore
Knudsen, James Russell
Koch, Kenneth W.
Kolstad, Ralph Edward
Kraemer, Thomas Edward
Krakowka, James Leo
Krift, Frederick Anthony, II
Krjeger, Patricia G.
Krygiel, Joseph John
Kucinski, Henry Joseph, Jr.
Kuemper, Albert Joseph
Lake, Charlotte Church
Lakis, Nicholas Peter, Jr.
Landkammer, Kristen Dick
Lang, Isaac Marinus
Langenheim, John Lawson
Langness, Jay Clair
Larose, Raymond John, Jr.
Lecompte, Malcolm Aaron
Lee, Patrick Douglas
Leiniger, Wilfred
Lemon, James Richard
Leonard, John Francis, III
Leonard, William Augustine J.
Leong, Jerrold Kim
Lepper, Robert Jarrett
Leslie, Donald Fredrick
Levine, Robert Bernard
Libera, Daniel Clark
Lindner, Robert William
Lindo, Clark Howard
Lindstrom, Jerry Duane
Link, Joseph William
Lister, Toney Joe
Lohsen, Mark Allan
Lucas, Michael Madison
Luebs, William Arthur
Lund, Myles John
Lundquist, James Roger
Lundstrom, Robert A.
Lyons, Mary Ethel
Macie, Joseph Clayton
Meckey, Jeffrey Alan
Madey, Cynthia Atwell
Macarz, Richard Charles
Marszalek, Kenneth James
Marteney, Donald Lynn
Martin, Lawrence P.
Martin, Paul H.
Martin, Stephen Douglas
Martin, Steve Richard
Martucci, Joseph Anthony, Jr.
Masch, Dennis F.

Mastagni, Daniel Stephen
May, Charles William
May, Stephen Martin
Mazzante, Louis, III
McBarnette, Curtis Wilhelm
McBride, Francis Xavier
McBrien, Stephen Vincent
McCann, Terry Patrick
McCloskey, John Dennis
McCollum, John William
McCormick, Robert C.
McCraken, David Grant
McCullar, Edward Terence
McCudry, Russell Alan
McDaniel, Marvin Neil
McDonald, John Edward
McDonough, William Lester, Jr.
McElroy, Kevin James
McGovern, Peter Joseph
McHenry, William Irvin
McKeever, David Vincent
McLaughlin, Daniel, Bates
McMunn, Mary Kay
Means, Charles Lee
Meehan, Joseph Francis
Meisenbach, Edward Walter
Mele, Vincent Nicholas
Menez, Martin Charles
Michael, Kirk Burton
Mihocik, Robert Andrew
Mikkelson, Jeffrey Allen
Milanette, Jeffrey Charles
Milbrath, Arthur Gordon, Jr.
Miller, Charles Kimble, Jr.
Miller, Charles Raymond
Miller, James Leslie Bellist
Miller Peter, Jr.
Mitchke, Robert Paul
Mitchum, Robert William
Monahan, Timothy Patrick
Monkhouse, Michael W.
Montoya, Samuel
Mooney, Owen Gavin Jr.
Moore, George R.
Moore, George Thomas, III
Moore, Robert Alfred
Moore, Robert Charles
Moore, Robert Lowery
Moore, William Thomas, III
Morgan, Kelly Brian
Morgan, Ralph Hopper, Jr.
Morgenfeld, Robert John
Morris, Thomas Earl
Morrow, Richhard Johnson
Morton, Robert Gary
Muehlen, David George
Mulder, James Clayton
Muldoon, Robert A.
Mussell, Richard William
Murphy, Peter Joseph
Murray, Michael Gilmour
Musselman, Robert Phillip, Jr.
Musselman, Warren Eugene
Myers, Steven Gilbert
Nafziger, George Francis
Nahas, Rafik E.
Nash, John Francis
Nelson, Richard Alexander
Nejpaver, Albert Joseph
Newlan, Ronald Scott
Nielsen, Jack Svend
Nieto, William, Jr.
Noble, Russel Scott
Nocton, Michael Eugene
Normand, Louis Lionel, Jr.
Norris, John William
Nosek, John Teofil
Nosworthy, Robert Arthur
Nugent, Joseph Hannon
Nupp, James Lee
Oberdorfer, Paul Ellsworth I.
O'Connell, Timothy Dennis
O'Connor, Michael Lawrence
Odom, Dennis Franklin
Ogawa, Mitsuo Ken
Oliver, Steven R.
Olson, Dennis Dean
Orfgen, Lynn Charles
Osborne, Kip Reid
Oster, William H.
Oswald, Thomas James
Owens, William Andrew
Pachuta, Mark Theodore
Papin, Gregory Alan
Parke, Thomas
Parker, Charles G.
Parker, Joseph Edward, Jr.
Passmore, Robert
Patterson, James Hugh
Patterson, Terry Lee
Paul, Kenneth Albert, Jr.
Pauling, Thomas Charles
Pearson, Robert John
Pendleton, William Chapman
Penning, Joseph Charles
Peretti, Robert Austin, Jr.
Peterman, Ronald Allen
Peterson, Richard Michael
Petrek, John Stephen, Jr.
Pflug, Keith John
Phillips, Daniel Edward
Phillips, John Lynch
Pickett, Clarence Albert, III
Pipes, Larry Steven
Plavin, Martin Alan
Pope, Richard Paul
Powers, William Hugh
Prichard, Robert Donald
Pryor, Roger William
Ptak, Alan Charles
Putnam, Keith Lee
Rabe, Louis Frederick
Raetz, Greg Christie
Rainey, John Charles
Raymond, Douglas Richard
Redpath, David W.
Reed, Russell Alden
Reese, James Claude
Regan, Joseph Martin, Jr.
Reich, Robert William
Reitinger, Glenn Emerson
Releford, Tom Timothy
Ress, Charles M.
Rice, Daryl Lee
Rich, Robert Thomas
Richmond, Donald Robert
Riley, Michael Ralph
Robertson, Donald Walter
Robertson, Larry Allen
Robinson, Steven Nourse
Roemer, Geoffrey Stephen
Rogers, James Stewart
Rogers, John Marsh
Rogers, Michael D.
Rollins, Christopher Thomas
Rolph, Henry Renton Jr.
Root, Timothy Nicholas
Rothwell, Peter Sutherland
Rowe, Clifton
Roy, Cleve Joseph Jr.
Rusczyk, Richard Stanley
Rylander, William Robert
Salscheider, Kurt Michael
Sammons, Timothy John
Samuels, Charles Lee
Sanders, Wade Rowland
Sanwick, Paul Bainbridge Jr.
Schaad, Frederick Gordon
Schlake, Steven Lynn
Schneider, Roger Louis
Schramm, Mark Stephen
Schroer, William David
Schultz, Charles Wesley
Schultz, Randall Craig
Schulze, William Winfree
Schwinghammer, William Erich
Scott, Thomas Earle
Sedgley, Ronald Michael
Seegmiller, Douglas Lee
Semko, Fred Allen
Sevier, Sammy L.
Sheldon, Robert Gail
Shellhammer, Gary
Sheppard, Christopher Gerar
Sherrard, Frank Coe, Jr.
Shields, Robert Graham
Shumlas, John Anthony
Sciedschlag, Paul Christian
Sigler, Titus Severn
Signor, Philip White, III
Silkroski, David Alan
Sill, John Rigdon
Skelton, James N.
Skrotsky, Robert Walter
Smart, Bruce Allen
Smith, Charles Gibbons, Jr.
Smith, David Arthur
Smith, Richard Franklin
Smith, Robert Dorsey, Jr.
Smith, Robert Spencer Kerr
Smith, Thomas Hugh
Smith, Thomas James
Smith, Urban Eugene
Snell, Peter Sherman
Sneller, Lynn Jay
Snow, John Daum
Soderberg, Eric Jarvis
Sokel, William Dale
Soldano, Daniel Albert
Somadelis, Michael George
Sommer, Larry Maurice
Sosnowski, Kenneth Charles
Sojle, Douglas Jackson
Speed, Claude Oscar, III
Spriggs, David Arthur
Stambaugh, Albert Leroy, III
Stanton, Donald Leon
Stark, Francis Cleveland, III
Stark, Richard Douglass, Jr.
Stas, Nicholas John
Stefaniak, Richard Thomas
Steinert, Charles Samuel
Stengl, Louis Carl
Stephen, Alexander Craig
Stevens, Ronald Walter
Stevenson, Susan Mallick
Stewart, Michael Bennett
Stewart, Robert Edwin
Stinger, William Elwood
Stockton, Herbert Hammond
Stockton, Jackson Allison, Jr.
Stockton, Steven Loren
Stokes, James Milton
Strickland, Walter Leonard
Strobbe, Robert James
Strube, David Carl
Subin, Michael Louis
Sudnick, Daniel R.
Sullivan, Jerry Joseph
Sullivan, Timothy Finbar
Susik, Michael Bruce
Sutter, John Lester
Swailes, John Hamlin
Swanson, Paul Arthur
Taramasso, Daryl
Taylor, Robert Emerson, Jr.
Teller, Robert Warren, Jr.
Tempest, Mark Jacquot
Tennyson, Nicholas Jon
Terhar, Louis Frederick, Jr.
Terry, James
Tetlow, Thomas George
Thomas, Daniel Richard
Thomas, John Rawls
Thompson, Kenneth Earl
Thompson, Ray Charles
Thomson, Richard Charles
Thorstenson, Michael Peter
Thurston, Steven Ronald
Todd, Alan Mitchell
Todd, John Lawrence
Torbenson, David Michael

Torelli, Nicholas Marcus, Jr.
Towers, Joseph F., Jr.
Traver, Stephen Alan
Trickey, Tyler William
Troutman, Stephan Brown
Trouville, Authur Girard
Tucker, Eugene Frank
Tufts, Arthur Woodman
Turner, James Lawrence
Tuttle, Jackson Corpening, II
Uhre, Craig Marvin
Ulrich, Vinton Kenneth, Jr.
Utschig, Thomas J.
Vanamberg, Joel R.
Vanderhoeff, William Johan
Vanderschuur, Paul
Vansittert, Thomas Paul
Vasicek, Patrick Richard
Vickerman, David Clark
Vinink, Edward Joseph
Vogel, George Conrad
Vorhoff, Patricia Ruth Murph
Waddell, John William
Waddell, Ray Kirk
Wagatha, Thomas Vincent
Wagner, Charles Steven
Walborn, Jerry Delbert
Walker, Robert John, Jr.
Wallin, Ralph Douglas, Jr.
Walsh, Gregory Edward
Walsh, John Kevin
Walters, William Terence
Ward, Arthur Jay
Ward, Terry Warren
Wasserman, William Louis
Waters, Cecil Lathan
Waters, Raymond Spencer, Jr.
Waters, William Henry
Watson, Robin Alexander
Weatherly, James Michael
Webb, John Robert
Wechselberger, Jacob Frank
Weems, Billy Wayne
Weidert, Leonard Louis, Jr.
Weise, Stephen Paul
Welch, John Kirtland
Wells, Michael James
Wesolowski, Robert Alan
White, Richard Marshall
Willcox, Thomas Savage
Williams, James Wayne
Williams, Robert Wister
Williams, Scott K.
Williamson, Larry Arthur
Willoughby, Thomas Earl, Jr.
Wilson, Paul William
Wilus, Michael Stephen
Wingert, Neil Steven
Woiwode, Michael John
Wolfe, James Robert
Wolff, Conrad Earle
Womer, Rodney Keith
Wood, John Steven
Wood, Mark Alan
Wood, Will Oscar, Jr.
Woodall, Allen Gene
Wright, Roosevelt Ruben, Jr.
Yonker, Robert Harold
Young, Thomas C.
Zader, Gustave Charles, Jr.
Zatezalo, Warren Matthew
Ziegler, Robert Lee
Zimmer, James Alex
Zwingle, Christopher David

UNRESTRICTED LINE OFFICERS (TAR)

Akers, Carl Wayne
Askey, Charles Benjamin
Beaver, Dennis Thomas
Bell, John Bradley
Bellows, Douglas James
Blanton, Lindsay Chambers, Jr.
Braselman, Herbert P.
Brooker, Susan M.
Bryant, Michael Bradford
Bunn, Bennie Garland, III
Cannon, James Dennis
Champion, William Thomas
Dean, Billy Joe
Duetsch, Robert Alfred
Fisher, Robert Stewart, Jr.
Foursha, Sammy Lee
Gato, David Thomas
Hadden, Carlyle Frederick
Halvorson, John Lyle
Hookanson, James Frederick
Jones, Thomas Levatte
Kirkish, Douglas James
Kohne, John Edward
Korbak, Michael, Jr.
Largent, William Dayton, II
MacGarvey, Ronald Elliot
May, John Donald
McAtee, Thomas Lee
McGuire, John Kingsley, Jr.
McLaughlin, John P.
Meadowcroft, Robert Allen
Mills, Dennis Reginald
Morrell, James M.
Nelms, Danny Charles
Nolen, Ulysses Louis
Page, Jack Wayne
Peterson, Patrick Brian
Petykowski, Jerome Leonard
Piersig, William Michael, Jr.
Probert, Roger Howard
Puzon, Daniel Isaac
Reisig, Rowland Dean
Rizy, David J.
Roeting, William Henry
Round, William H.
Schrade, Donald E.
Schum, Michael E.
Shealy, Wilson Otto
Shelton, Connel Michael
Simpson, Terry Lee
Slider, Victor Lee
Smith, Roy Michael
Strzemienski, Stephan Joseph
Surratt, Randal Lee
Swain, Donald Alan
Thompson, John Thomas
Tomich, David Bennett
Torres, Alexander
Underwood, Jonathan Charles
Walsh, Thomas M.
Zolla George Allen, Jr.

ENGINEERING DUTY OFFICERS

Adams, Andrew Roderick
Allen, Kristin Lloyd
Anderson, James Larry
Armenia, Michael Peter
Briggs, Fred M., III
Bruckner, Charles John, Jr.
Cook, Rodney L.
Detterline, Carl Lynn
Dick, Reay Stewart, Jr.
Donovan, Stephen James
Drumm, Donald Kenneth
Elin, John Oliver
Ellison, Carl Edwin
Florio, John Francis
Freeman, Ivan Elmo, Jr.
Gant, Gregon Lee
Gjovig, Allan Jerome
Jouannett, Peter Richard
Kaucher, James Elmer, Jr.
Kreutzer, Kenneth Lee
Kubo, Lawrence Hiroshi
Martsolf, Steven Wesley
Mayhan, Terence W.
McGrail, John Michael
Merschoff, Ellis Wesley
Mikhalevsky, Peter Nicholas
Moran, Robert Paul
Morgan, James Larry
Penn, Lanning Michael
Shebalin, Paul Valentine
Skolds, John Lawrence
Thoma, John Otto
Wasalaski, Robert George

AERONAUTICAL ENGINEERING DUTY OFFICERS (AERONAUTICAL ENGINEERING)

Anderson, Royce
Harrison, Jeffrey A.
Palazzo, Anthony John, Jr.
Sanders, George Huey
Stratton, Raymond Wayne
Zulich, John William

AERONAUTICAL ENGINEERING DUTY OFFICERS (AVIATION MAINTENANCE)

Curry, William Mulford
Malone, Laurence James
Rappaport, Gerald Paul
Tyson, Dan M.

SPECIAL DUTY OFFICERS (CRYPTOLOGY)

Allen, John Merrill
Clausen, Richard John
Clements, Albert William, Jr.
Cook, Michael John
Doshier, Alan Jeffrey
Doyle, David Joseph
Heavey, Martin Richard, Jr.
Hill, Lawrence Allen
Jaehnig, James Leonard
Knight, Robert Milton
Koehler, David Arthur
Koelemay, Maurice Martin
Musto, Pasquale Arthur
Siegel, Samuel Lee
Skinner, William E.
Valle, Paul Michael

SPECIAL DUTY OFFICERS (MERCHANT MARINE)

Britt, William Clifford
Conlin, Richard Royce
Field, David Sutton
Foley, William Devereux
Kinder, Cliffor
LaPalme, Albert Francis
McWilliams, John Michael
Miller, Gary N.
Nikaido, Minoru, James
Ohnstad, Peter R., Jr.
Osander, Edward H.
Rancourt, Norman G.
Rood, Larry Norman
Skoropowski, Ernest Paul
Stribling, Edward E.
Williams, Edward Barney, Jr.

SPECIAL DUTY OFFICERS (INTELLIGENCE)

Anderson, John Maynard
Beeler, Judith Crawford
Bishop, Donald Clifford
Bogan, John Charles
Bostwick, Willard David
Boule, Earl Michael
Bradshaw, Kenneth Delos
Broadley, Timothy Shaw
Brown, Lawrence Gregory
Burks, Edward Lee
Campbell, Fred Hammond
Carlson, John Lawrence
Chambers, Michael Perry
Chernoff, Albert Richard
Cox, David Lawrence
Craig, William Earle, III
Daywalt, Theodore Lewis
Deitch, Harry Edward, Jr.
Dierks, Gordon Rollo
Diraimo, Edgar Frank
Doyle, William Edward, III
Dyer, Dwight Dewey
Eissler, William Roberts
Fennell, Charles Keith
Fenstermacher, John William
Frey, George Marshall
Fry, Grant Reed
Fuhr, John Carter
Fyda, James Francis
Garrett, Alexander Reid, III

Gastgeb, David Charles
Gerth, Gary John
Gewerth, Joseph Francis, Jr.
Good, Todd Alan
Goss, Michael William
Griffing, Carolyn Day T
Gugisberg, Mark Robert
Halbig, Michael Carlos
Haney, William Roy
Harman, John David
Herman, Laurence True, Jr.
Hines, Hubert Orville
Honan, Michael Patrick
Hottel, Douglas William
Huddleston, Colin Campbell
Jamison, Earl Joseph
Jennings, Belton Emoulous, II
Jones, Royden Edwin, Jr.
Jordan, David Milton
Kelberlau, William Ralph
King, Stephen Quinton
Kirby, Thomas Michael
Kirwin, Richard James
Klein, Phillip Drake
Kokkinakis, George Nicholas
Lai, Alexander
Lancaster, Joel Ray
Lauzon, Pierre
Liardon, Darrell Lee
Libuse, Janis Leanore
Lussier, Norman Vincent
Macnish, Stephen Michael
McDonald, William Michael
McKinney, William Lynn
McMaster, Marla Jill
McPherson, Victor Holiday
Merrill, Patrick Henry
MIller, Robert Arrington
Miller, Sharon Elaine
Miskill, Diana Shelton
Mitani, Michael Kiyoshi
Moorman, Mickey Carl
Morin, Norman Gerard, Jr.
Naylor, William Mark
Newhard, Allen Sames
Nilsson, Jeffrey Stephen
Norris, James Clindon
Nowak, Thomas John
Olvera, Carlos Nelson
Palmer, Henry Boberg
Pelaez, Wayne Roger
Power, Timothy Henderson
Preovolos, Michael John
Pyle, Gerald Fredric
Reppard, David Bruce
Rhoads, Donald Ray
Robertson, Andrew Coxe
Robertson, Claude Eugene
Sandeno, Robert J.
Schoonover, Eleanor Sloan T.
Shjler, Stanley Charles
Shurly, Burt Russell, III
Sprinkel, Jan Arthur
Taylor, Philip Arnett
Uhrich, John Paul, Jr.
Waite, James Leroy
Whelan, Stephen John
White, Richard Mahaffey
Wilton, Sarah Gay
Wolf, Joseph George

SPECIAL DUTY OFFICERS (INTELLIGENCE) (TAR)

Brooks, Stanley Preston
Morton, Barry Vonberg

SPECIAL DUTY OFFICERS (PUBLIC AFFAIRS)

Berryman, Eric J.C.
Brender, Mark Edward
Feldman, Peter Michael
Fox, Richard Alan
Fulbright, Robert William
Gonzales, David Jacob
Heard, William Henry, Jr.
Houghton, Robert Menagh
Martin, Don Richard
McElwreath, Sally Chin
Miller, Larry Dean
Nemeth, Christopher Paul
Pinard, Thomas Clifford
Schneider, Charles Frederick
Snook, Thomas Russell
Snyder, David Michael
Stowe, Charles Robinson Beec
Taylor, Christopher James
Vickers, James Robert
Williams, Wellington Jenning

SPECIAL DUTY OFFICERS (OCEANOGRAPHY)

Carron, Michael Joseph
Nall, Stephen Lloyd
Paulus, Richard Alan

IN THE NAVY

The following-named lieutenants in the line of the Navy for promotion to the permanent grade of lieutenant commander, pursuant to title 10, United States Code, section 624, subject to qualifications therefor as provided by law:

UNRESTRICTED LINE OFFICER (11XX/13XX)

Abbott, Bruce Allen
Abel, Joseph Lawrence
Adams, James P.
Ade, Edward Kenneth
Adolphson, Keith Victor
Adrick, Mark K.
Aland, David J.
Albert, Steven Patrick
Algood, Bert R.
Allard, Frederick D., Jr.
Allard, Martin Robert
Allen, David Lee
Allen, Douglas James
Allen, Gregory J.
Aly, Sherrie Susan
Amster, Daryl Lyn
Andersen, James Christian
Andersen, Robert
Aderson, David Owen
Anderson, Mark Allen
Anderson, Mark B.
Anderson, Wilhelm
Anduze, Neal Edwin
Anhalt, Michael Dennis
Ardouin, Lisa Ann
Arellano, Reynaldo Austria
Arguello, William R.
Arminio, Thomas John
Armitage, David M.
Armstrong, Danny Wayne
Armstrong, David Spencer
Arrowood, Jacquelyn Marie Yo
Artho, Alfred E.
Artzer, Steven P.
Ashby, Jeffrey Shears
Atkisson, Mark M.
Austad, Craig Kermit
Bachman, Stephen Dale
Bader John T.
Badini, James Michael
Baer, Dennis Robert
Bagby, Steven Mallard
Bailey, Tony M.
Baker, Duane Martin, Jr.
Baker, Rodney Lee
Baker, Terrance L.
Bales, Robert Franklin, Jr.
Balmert, Mark W.
Bankston, Benjamin Hiram
Barbaree, Robert Donel, Jr.
Barber, Edward M.
Barnes, David Richard
Barnes, Joseph L.
Barns Thomas Davenport
Barron, Claude E.
Barrowman, Mary Ann McCullen
Barton, George F.
Barton, Larry Steve
Bass, Richard Allen
Bass, Roy Clyde
Battle, Joseph Ceasar
Bauder, Dean Harold
Bauer, Thomas E.
Baxter, Roxanne Lea Thomas
Beach, Daniel S.
Beam, David Clyde
Beattie, George Taylor, Jr.
Beaver, James M.
Becker, Deborah Ann
Becker, Gerard Lee
Becker, Lawrence Charles
Beck Michael C.
Belser, Steven Michael
Bennett, Brian Eugene
Bennett, Jerry F.
Bennett, John S.
Bennett, Richard Scott
Bentley, David L.
Berg, Richard Charles
Berg, Scott Alan
Berner, Joseph M.
Bigelow, David Dwight
Bily, Thomas J.
Bindman, Carl David
Bitar, Kenneth Joseph
Blandford, Robley
Blasko, James A.
Blower, Fred William
Blunt, Susan J.
Boatwright, Brooks Owen, Jr.
Bogdanowicz, Robert A.
Bohlmann, Joel E.
Boice, Nancy Konrad
Boland, Donald J.
Bolich, Harry P.
Borchers, Mark M.
Bornemeier, Philip Albert
Bostwick, Steven Ray
Bowles, John L.
Boyd, Austin W., Jr.
Boyd, Michael Edward
Boyle, James Earle
Bracewell, Herbert William J.
Bradley, Stephen Graig
Branch, Ted N.
Branson, John J.
Braun, Arthur Christian
Braun, Carl William
Brethauer, Todd Steven
Brewer, James R.
Bricker, Martin P.
Brinkley, Ronald Waverly
Bristow, William Kreiner
Brittle, Jeffrey Scott
Brooks, Forrest E., III
Brooks, Michele Anne
Brown, Theodore H.
Bruetting, Dale Allen
Brus, Henry H.
Brynestad, Mark A.
Buckingham, Jack Edgar, Jr.
Budweg, Gregory J.
Buehn, Robert A., Jr.
Buesser, Frederick M.
Burdine, David Austin
Burkett, Bruce T.
Burney, Stanley H.
Burton, John C.
Butler, Dempsey, III
Byrd, Gregory L.
Cain, Chris C.
Caldwell, Nathaniel French
Callahan, Kim Francis
Camacho, Joseph D.
Campbell, Jeffrey Reid
Capponi, Michael
Caram, John M.
Card, Kendall L.
Cardosi, James J.
Carey, Michael J.
Carlton, Jo Anne
Carpenter, Larry Irvin
Carter, Bruce W.
Carver, William K.

Case, Duane D.
Casto, Daniel Pineda
Caulfeildjames, Jeffrey Paul
Caulk, Peter M.
Cerne, Victor Lee
Chadbourne, Barbara Jean Nel
Chaimowitz, Joel Warren
Chambers, Heather Ann
Chamblee, Richard E.
Cheeseman, William E.
Cheever, James R.
Cheri, Lionel L., Jr.
Chow, Michael J.
Christensen, Peter Hugh
Christensen, Ryan L.
Christofferson, Edward Alber
Cioni, Gene Robert
Cirmo, William Francis, II
Clardy, George Leighton
Clary, Monecia Renia
Clary, Robert William, Jr.
Claus, Colin D.
Cleaver, Christopher Mark
Clinko, Stephen E., Jr.
Cobery, Janel Dee
Cofield, Guy B.
Cole, James O.
Colman, Paul T.
Comis, David Lionel
Cone, Allen D.
Connery, Robert Edward, Jr.
Connor, Charles E.
Conrad, Donald Charles
Conway, Wallace, J.
Conwell, Candace Lee
Cooke, Barry Thomas
Cooke, John G.
Cooper, David R.
Cooper, Gregory H.
Cooper, Ruth Anne
Coppenbarger, Mark Wayne
Corcoran, Mimi NMN
Corkill, Jean Frances
Cornish, Gregory
Corpus, Jose R.
Costanzo, Ralph R.
Costello, John M.
Coufal, Jerry Wayne
Coulson, James D.
Cox, Miriam Anderson
Coye, Maribeth
Crane, Jeffrey B.
Crawford, Donald Carr
Creech, William Lyman
Crevier, Raymond
Crews, Edward Lee, Jr.
Crisp, Michael D.
Cronin, Judith Louise
Crosbie, Michael Kerbie
Crowell, Ronald Anthony
Crowley, Kenneth Lee
Crow, Michael Lewis
Cruze, Shelley Jo
Cullinan, Robert L.
Current, Richard
Cutri, Anthony Dominick
Dailey, Steven William
Dalton, Dennis F.
Damico, William T.
Daniels William Dwight
Daugherty, Marshall Dean
Davis, George D., III
Davis, Jeffrey J.
Dawson, Brooke Alyn
Dawson, Robert M.
Debella, Linda Guadalupe
Decker, William Leecraft
Deeble, Kenneth M.
Deems, Sharon Ann
Deitch, Nancy Lambert
Demartini, Edward J., Jr.
Denam, James Donald
Denton, Willard Eugene
Depuy, James Stanley
Dewes, William E.
Diefenbach, Andrew Lawrence
Diller, Marlin G.
Dimel, Mary Charlotte
Ditko, Donald R.
Dodsworth, Rodney
Doggett, Amy N.
Doherty, James M.
Dom, George Byers
Dominicci, David Albert
Doten, Glenn Emerson
Doyle, Terrence M.
Dranchak, James J.
Drescher, Richard B.
Driskill, Clifford Dale
Driskill, Don W.
Droppa, Robert E.
Dubard, Dennis D.
Duchak, George D.
Dulke, Michael Francis
Dunan, Sally Elizabeth
Dye, Gary Bryan
Earl, William Jeffrey
Eberhart, Stephen Edward
Edwards, Catherine Elizabeth
Edwards, David Ellis
Edwards, Ronald Lee
Egan, Richard Thoma
Egler, Gerard T.
Elliott, Glenn D.
Emerson, Thomas Harold
Enochs, Edgar R.
Erdt, Dennis D.
Erickson, David E.
Ericson, Glen F.
Evangelist, Angelika Mason
Eves, Robert C.
Fairfax, Donald Jesse
Fann, Theodore Randall L.
Fay, David Edward, Jr.
Featherston, Robert Henry
Feeney, Christopher E.
Feiler, John F.
Felmly, Michael Lloyd
Fenner, Ronald Alton
Ferenczy, William Joseph
Ferguson, Mark Edward, III
Ferguson, Richard Paul
Filkins, Peter C.
Finley, David C.
Fischer, Michael Jeffery
Fleming, Marc A.
Florie, Terry Lynn
Fogg, Glenn Aaron
Fontaine, David J.
Fontaine, Scott A.
Foster, Andre P.
Fox, Samuel M.
Frair, Keith Bernard
Frank, Richard F.
Fraserandrews, Linda Jean
Fraser, John Edward
Frazier, Jack Eugene
Frederick, David Lee
Freeburn, Robert J., Jr.
Freeh, Susanann Mary
Frey, Thomas J.
Frick, Michael S.
Frothingham, Peter J.
Fullerton, George
Fulwiler, Barry A.
Galecki, Leon Victor
Gallagher, Dirk M.
Gallagher, Timothy Richard
Gallardo, Albert J., Jr.
Gardner, John S.
Garica, Stephen A.
Garland, William Paul
Garrison, Clifton Franklin
Gary, Bret Carleton
Gauthier, Maurice Keith
Geanuleas, Louis James
Gear, Daniel E.
Gengo, Joseph Thomas
Geoffrion, David G.
Gerken, Cary Steven
Gerrard, Wade Jay
Giesen, Stephen A.
Gifford, Diane Marie
Giles, Keith Douglas
Gilman, Robert J.
Gilmore, Rober Alan
Girard, Robert R.
Gladman, Lynn Elizabeth
Glass, James T.
Gliebe, Victoria Marie
Goddard, Paul Earnest
Goetsch, Brad Thomas
Gonzales, Henry
Goodall, Thomas David
Goodman, Clarke Elmer, Jr.
Goodwin, William Anthony
Gortney, William Evans
Gould, James William
Govan, Dale R.
Graber, Kenneth A.
Graham, Bruce Alan
Grandfield, Philip W.
Grant, Deborah Lea
Gratas, Arthur Nicholas
Graves, Ronald M.
Gray, Brendan Laurence
Green, Johnny L.
Green Ronald Timothy
Greenwood, Carter Mason
Greunke, James H.
Grice, Gary Lyle
Grimes, Dennis R.
Groves, Gregory Eugene
Gruetzner, James K.
Guillory, Victor
Guisewhite, Dennis Edward
Gurczynski, Robert Allan
Guthrie, Melinda Lee
Hackney, Norma Lee
Haid, Terance E.
Haines, Dennis
Hall, David R.
Hall, Martha Louise
Hallford, Charles W.
Hamblin, Robert N.
Hanley, Timothy R.
Hansen, Daniel L.
Hansen, Robert Carl, Jr.
Harkey, Deon Austin
Harmon, Joyce Lee
Harper, Scott F.
Harris, Craig F.
Harris, Harry B.
Hartigan, James D.
Haskins, Terry O.
Hasse, Lester Benjamin, III
Hauth, Larry Wayne
Hawkins, Thomas Arthur
Heathcote, Richard W.
Hebert, Dirk P.
Hedges, Jeffrey A.
Heiser, Charles Donald
Hejl, Thomas A.
Helweg, Gretchen Ann
Hendrick, Scott D.
Henry, Leon M.
Henry, Zachary A.
Herr, Albert, III
Heughan, Charles Duane
Hicks, Richard Arthur, II
Highfill, Keith G.
Hight, Elizabeth Ann
Hileman Kenneth L.
Hill, Thomas S.
Hinton, Jan Michele
Hirko, William G.
Hithon, Cary J.
Hochevar, Albert
Hodges, Jocelyn Elaine
Hodor, Brian Michael
Hoeinghaus, Michael J.
Hoffman, James David, Jr.

Hoffman, Mark Alan
Hoffman, Randall H.
Hoffman, Theodore James
Holderby, Don Murrell
Hollich, Paul J.
Holst, Gary Michael
Hopkins, Rachel Earl
Householder, David Alan
Hovland, Douglas Lyle
Howard, Michael R.
Howard, Robert L.
Howardsnow, Joy Lee
Hoyt, Michael L.
Hubert, Beth Evelyn
Huey, Patrick Charles
Hugel, Mark A.
Hungerford, Ronald D.
Hyers, Peter M.
Isabelle, Paul G.
Ittner, William Herbert
Jackson, Leon, Jr.
Jackson, William Edward
Jacovelli, Michael Angelo
Jamison, Charles
Janikowsky, Ralph Earl
Jedrey, Patricia Anne
Jeffrey, James D.
Jensen, Mark Eric
Jensen, Thor K.
Johnson, Gregory Carl
Johnson, Richard Eric
Johnson, Signe Therese
Johnson, Stephen Elliot
Johnson, Steven Paul
Johnson, Thomas W.
Jones, Bartlett Kyle, III
Jones, David Lane
Jones, Donald D.
Jones, Griffith G.
Jones, Jerry Michael
Jones, Joe Dean
Jones, Robert A.
Jones, Scott L.
Joyner, Hames Otis, Jr.
Julian, Robert G.
Jupena, Jeffery Matthew
Kaiser, James C.
Kaiser, Thomas John
Kasun, David Michael
Kaufman, Michael A.
Kearney, John J.
Kear, William J.
Keeley, Thomas Francis
Keeney, William Michael
Keim, Ronald G.
Keith, Stephen W.
Kelly, Lesley Ann
Kelmar, Brian A.
Kempf, Michael J.
Kenny, Mark W.
Kernan, Joseph Devereux
Keuhlen, Daniel Thomas
Key, Charles Byng, III
Kikla, Richard V.
Kilkenny, Joseph F.
Kimmick, Bruce Leonard
Kindred, John Preston
King, Stephen Starr
Kirk, Kristopher D.
Kirk, Mark Andrew
Klauer, Robert Patrick
Klein, Raymond Michael
Klijn, Martinus M.
Knollmann, Michael Galeese
Knott, George Anthony
Knutson, Danny C.
Knutson, Edward Charles
Koelzer, Thomas Gerard
Kollmorgen, Gary
Koon, Keith F
Koscal, Albert Jr.
Koscielny, Stephen S.
Kovalchik, Joseph
Krakau, Bruce R.
Kreitlein, Harold Chris
Kuehne, Linda Hall
Kuhnreich, Jeff Clark
Lackie, Jon David
Lackman, Donna Kay
Ladner, Merlin William
Lambert, Daniel M
Lambert, John David
Lancaster, Linda Marie Day
Langman, Craig E.
Lanzer, Bradley N.
Lappat, David Leo
Leahey, Catherine Anne
Leary, David Allan
LeBlanc, Gene Francis
LeBlanc, Patrick
Leduc, Gene Albert
Lestrange, Peter John
Lewis, Charles Dwight
Lewis, Dale A.
Lewis, Peter Jewett
Lindner, Thomas E.
Lipton, Joseph K.
Little, Kevin Lindsay
Litty, Frederick Lucas, III
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Livingston Diane Elizabeth
Lochry, James C.
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Longmeier, Michael Steven
Lopes, Alexander
Lorentz, Timothy
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Lusted, Roderick Mark
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Lynch, Paul K.
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MacCrea, Douglas Graeme
MacCrossen, John Edwin
MacHasick, Raymond Tex
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MacMillan, Denham Bruce
Maconi, Stephen M.
Madden, James H.
Madson, Robert C.
Magee, Robert H.
Mahaffey, Patrick David
Mahoney, Terence Edward
Maiorano, Alan Gary
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Mallo, Gary O.
Mallon, Paul J.
Manaskie, George
Marcantonio, Richard Lipi
Marcinkowski, Eugene
Marett, Duann Ardean
Marlowe, Laura Anne Carpenter
Marsh, Barbara Diegel
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Martin, William Alexander
Mathews, Jerome Jay
Matranga, Eugene
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Mauritho, Valerie Elizabeth
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McBride, David T.
McCall, Donald I.
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McCarthy, Karen Patricia
McCartney, Pat G.
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McCray, Gregory Clyde
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McDonald, Joan Elizabeth
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McWhorter, Richard David, Jr.
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Meister, Douglas Conrad
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Menendez, Jack Stephen
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Meyerriecks, Brian Joseph
Michaels, James C.
Mickelson, John Wesley
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Miller, Cynthia
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Miller, Patricia Ann
Miller, Paul Kevin
Miller, Ronald L.
Miller, Roy L., Jr.
Miller, Samuel C.
Miller, Steven C.
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Mitchell, Martha Ann
Molinari, Joseph A.
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Moore, Corey S.
Moore, Gary D.
Moore, Melanie Elise
Moran, Melinda Lee
Morel, David
Morganelli, Patrick Daniel
Morin, John Patrick
Morrissey, Kevin
Morrisey, Shawn
Morse, Jeffrey A.
Mort, Michele Gilbert
Moser, Alan C.
Mosier, Teresa Urban
Moudy, Alan Craig
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Murray, Christopher Cyrus
Myers, Allen Garver
Myers, Patrick D.
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Needler, Mark S.
Neidrauer, Richard Alvin
Nelson, John S.
Nelson, Kurt W.
Nelson, Philip B.
Nevius, Colleen
Nevius, William
Newton, Jeffrey Park
Noble, Michael Lynn
Nolan, Terry Evell
North, Louis Arthur, Jr.
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Nye, Holly Lawrence
O'Brien, Patrick S.

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Oliver, James Davis, III
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Orchard, Richard John
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Ormson, Charles S.
O'Sullivan, Richard Warren
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Page, Leslie Ann
Painter, Ann Rebecca
Palatas, Michael David
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Palmer, Scott Eugene
Palmer, Thomas R.
Palshook, Jeffrey P.
Papworth, Beth Harrell
Parker, Kenneth Eugene
Parr, Charles V.
Parsons, David Lee
Pasqualucci, Mary Elizabeth
Payne, Richard A.
Payne, Richard Harold
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Pederson, Carl Martin, Jr.
Peoples, Laura Retta
Perry, Christopher Robin
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Peterson, Peter Ernest
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Pickles, Thomas R.
Pieluszczak, Linda Lassiter
Pierce, Charles James, Jr.
Pierce, Francis S.
Pierce Terry Cliffton
Pillsbury, James E.
Pitera, Theordore Stanley
Placek, Melvin Baldwin
Plunkett, Nancy Diane
Podenak, Gary Lawrence
Podracky, Dean R.
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Popovich, Michael R.
Porter, Joann
Porter, Melody Ann
Porter, Robert Hanson
Posch, Jon Thomas
Potts, Dana Richard
Powell, Robert David
Powers, Christopher Lee
Powers, John
Prevatt, Richard M., III
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Price, Stephen R.
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Pullar, Walter S., III
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Quigley, Keith J.
Quinn, Kevin M.
Quinn, Robert J.
Racoosin, Charles
Radebaugh, Gale Rae
Rainwater, James William
Ramsey, William Paul
Rauch, John Alan
Raymer, Ronald C.
Read, John Alexander
Read, Oliver M.
Reams, Orin Paul
Rehrig, Fred Evan
Reidy, David John
Reitmeyer, Thomas
Rengstroff, Carol Ann
Repper, Ronald C.
Rhodes, David Allen
Rice, Frank R., III
Richardson, Alan David
Richardson, Earl A.
Richards, William Lee
Rickenbaker, Mannie E.
Rieckenberg, Richard Louis
Rigterink, Daniel Charles
Rishel, Robert I.
Rivall, Stewart Warren
Roberts, John Alan
Robertson, Debra Lynne
Roberts, Steven W.
Robertson, Jan A.
Robertson, Lynn Janet
Rodeck, Renee Lefebvre
Rogers, Marvin
Rogers, Richard Wayne
Roncolato, Gerard David
Rosbolt, Paul K.
Rose, Gary Edward
Ross, John William
Ross, Mickey V.
Roth, Laurence J.
Rowley, James L.
Ruggles, Gerald Paul
Russel, Jim Howard
Russell, Philip Irving
Russel, Thomas A.
Rynda, Douglas Charles
Salacka, Thomas F.
Salm, James Martin
Salsman, Charles P.
Samsel, Donald George
Sanderson, Vicky Rae
Sanford, Katherine Lovejoy
Sapp, Jeffrey K.
Sapp, Kathy Cambridge
Sassaman, Mark S.
Saul, Gregory D.
Saunders, Stanley L.
Saunders, Thomas E.
Savignac, Mark D.
Sawyer, Gregory R.
Scalet, Joseph P.
Schaal, Helen Jeannette
Schempp, Leonard Francis, III
Schlichter, William Anderson
Schlientz, Steven
Schmidle, Paul Walter
Schmidt, Richard Anthony
Schmorde, Frederick A.
Schnedar, Christopher P.
Schneider, Joseph M.
Schneider, Leo F.
Schneider, William J.
Schramm, Joan Ellen
Schreiber, Jonathan Kim
Schubert, David M.
Scott, John D.
Scott, John Lee
Scull, Walter Gambier, III
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Seipel, Dennis J.
Selberg, John J.
Self, Richard E.
Self, Richard J.
Selman, Gary J.
Semmler, Karl John
Sewell, David J.
Shaheen, Frederick Fraum
Sharpley, Patricia Ann
Sheedy, Ann Margaret
Shelton, Sharon Jo
Shephard, Scott S.
Sheppard, Jon Josef
Sherman, John William, Jr.
Shinego, Daniel R.
Shipps, Karl O.
Shmorhun, John M.
Shropshire, James Ernest
Shutler, Eric Rud
Sigg, Daniel R.
Sihrer, Dale S.
Sill, John Alan
Silvers, Cary Alan
Simmelink, Lawrence T., Jr.
Simms, Daniel R.
Simon, Dennis L.
Singer, Andrew Michael
Sisa, Peter J.
Skinner, Walter M.
Skocik, David J.
Slack, Christoper Dana
Sleeth, Catherine Josephine
Small, James Francis, Jr.
Smith, Bruce E.
Smith, Daniel Joseph
Smith, Daniel Martin
Smith, Douglas M.
Smith, Gregory F.
Smith, Guy Edward
Smith, Michala Mary
Smith, Richard Whitney
Smith, Robert Bruce
Smith, William M.
Snead, Richard L.
Solheim, Randal Jon
Souders, Robert M.
Spada, Christopher John
Spangenberg, Keith Norman
Speck, Mark Edward
Spence, Frank W.
Spencer, Scott Alan
Spence, William Douglas
Spilman, Vicki McCool
Spooner, Daniel John
Sprung, George G.
Stanley, Henry Turner, III
Stathos, Christoper Louis
Station, George V.
Stearns, Mark Alan
Stedman, William Bruce
Steele, John Gregory
Stenstrom, Thomas
Stevenson, Thomas
Stewart, Ann Catherine
Stewart, Keith James
Stewart, Marc S.
Stites, Ronald Paul
Stiles, William M.
St. John, Guy Files
Stone, Nancy Barbara
Stotz, John W.
Stout, Allen Marvin
Streeter, Matthew
Strobridge, Ronald Lewis
Stromann, Peter W.
Strong, David W., Jr.
Stroud, Geoffrey Anthony
Stuart, John K., Jr.
Stuetzer, Scott Michael
Stulb, William K.
Sturm, Michael R.
Sullivan, Brenda Jean
Sullivan, Joseph Edward
Swain, Neil Allen
Swanson, Dane C.
Sweeney, Mary Josephine
Sweigert, Melody Anne
Swystun, Andrey Petro
Takahashi, Stanley Scott
Tamayo, Andrew Brian
Tansey, Daniel A.
Tartaglione, John J.
Taylor, Richard L.
Taylor, Robert R.
Thayer, Richard L.
Thomas, Brian Christian
Thomas, Marc Joseph
Thomas, Scott Michael
Thomas, Timothy Mark
Thomas, William Franklin
Thompson, Daniel Diemer
Thompson, Robert Lewis
Thorp, Michael L.
Thrailkill, Steven Michael
Tierney, John M.
Tilden, Barry M.
Tillerson, William Eugene, Jr.
Timme, William G.
Timon, Charles NMN, Jr.
Timoney, Gregory Paul
Timreck Nicholas Brian

Tobin, Albert A.
Toop, Robert Russell
Torrance, Geoffrey Charles
Tranchant, Raymond Junior
Trass, Kenneth R.
Tribble, Terrell Lee
Trice, Roderick Edwin
Tripp, Marc F.
Trotter, Thomas W.
Tubbs, Pamela Webb
Tupper, Lawrence D.
Turley, Craig W.
Turner, David E.
Tuttle, Daniel B.
Uchida, Richard Tad
Ule, Robert Louis
Unangst, Kurt Daniel
Underwood, David D.
Upchurch, Robert Burton
Vanderbergh, Pieter, N.A.
Vanderpool, Priscilla Anne
Vanmeter, Lewis Lane
Vannortwick, Eric Davis
Vanvalkenburgh, Matthew Mart
Vasquez, Billy Lee
Vaughan, Jill Alison
Vaughan, William H.
Vaughn, Stephen R., Jr.
Vaught, Rodney D.
Vecchiolla, Thomas Anthony
Verderosa, Christina NMN
Villarreal, Carla Ann
Vitale, Michael Craig
Vogel, Robert R.
Vonhoene, Paul Joseph
Voytek, Richard A.
Vuolo, John F.
Wahlstrom, Mark Gregory
Walborn, Daniel M.
Walker, Joel N.
Walker, Steven C.
Walpole, Dennis A.
Walsh, Patrick M.
Walters, Charles David
Walters, John Edward
Walworth, Lawrence M.
Wanjon, Michael F.
Warren, James L.
Wasek, Joseph NMN, Jr.
Waters, John C.
Waters, Michael K.
Watkins, William Brian
Wayne, John Louis Brown
Weaver, James L.
Webb, Michael Anthony
Weddle, Jeffrey D.
Weeks, David Calvin
Weglicki, Michael S.
Weilbacher, Stephen Nelson
Weimer, Robert K.
Weingart, Stephen Gregory
Weiss, Charles Herman, Jr.
Weissinger, Richard W.
Wellman, Michael N.
Wells, Robert Scott
Wenceslao, Daniel Lathrop
Wertz, Michael Ray
Wetherill, Glenda Jo
Whalen, Douglas Frank
Wheeler, William H.
White, Blake Ellis
White, Carol Ann
White, Gary Ronald
White, Glen Thomas
Whitehurst, Richard Marshall
Whitsell, John Beryl
Wicks, Donald Russell
Widmaier, Linda Ellen
Wiggins, Paul A.
Wilbur, Thomas George
Wilde, Robert L.
Wilkins, Jacob P.
Willcox, Bary C.
Williams, Carl Edward
Williams, David T.
Williams, Kenneth A.
Williams, Kent A.
Williams, Melvin
Willis, David Robinson
Willis, Lola Jean
Wilson, Joel Leon
Wilson, John R.
Windham, Jimmy Roscoe
Winns, Anthony L.
Wirt, Robert Orville, Jr.
Wisecup, James P.
Withers, James D.
Woodrum, Nancy Jane
Wood, Winston D.
Woolweber, Wayne T.
Worrilow, Mark D.
Wright, Reuben Leon
Wright, Robert Paul
Yaple, Roy Lee
Yeager, William E.
Yeager, Earle Swisher
Yeakel, Karl E.
Yoder, Albert W.
Yourstone, Walter
Yurchak, John Marshall
Zanot, Deborah Anne
Zath, David M.
Zellweger, Joyce Elaine
Ziegler, Paul Michael
Ziegler, Russel Mark
Ziemba, David
Zimmerman, George Williams
Zingarelli, Leonard Allen
Zurey, Mary Jo
Zwiep, John Daniel

ENGINEERING DUTY OFFICER (14XX)

Alcamo, Mark E.
Anderson, Carl Lee
Anthony, Jacob A., III
Antonio, Dennis Daquil
Ayotte, Peter P.
Beasley, Harrison A., Jr.
Billings, Alfred J.
Brooks, Steven L.
Buckingham, Thomas Martin
Budweg, Howard Lynn
Butler, James L.
Caille, Gary William
Corbett, Philip J.
Cromar, Patrick Frank
Delaney, Michael Edward
Dicken, William A.
Dreher, Lawrence J.
Ebel, Kevin Clifton
Escue, William D.
Frey, James Gilmore
Garcia, Edward L.
Hall, Donald Roy
Hall, John F.
Hamner, Michael S.
Haney, Keith D.
Hutchens, James W.
Janikowsky, Linda Crockett
Joseph, Stephen Leo
Kamen, John S.
Kasputis, Stephen R.
Kauffold, Richard Paul
Kolodziejczak, Gregory Conra
MacMillan, Peter Norman
Marques, Joseph P.
Martinez, Benjamin nmn, Jr.
McDaniel, Brent Wright
Mickelberry, Kenneth Dalton
Morais, Roger J.
Munz, Paul D.
Murphy, Thomas J.
Oakes, Bryan Robert
Oberhofer, Kurt D.
Ogg, Bradley R.
Peterson, Peter John
Polcari, John J.
Pyron, John T.
Rappeline, Peter Frederick
Rodriguez, William D.
Roger, James Everett
Rowley, Udo H.
Sanders, David W.
Schrum, Jesse B.
Schulze, Kurt Donald
Shaw, Mark Leonard
Shimko, Michael John
Stewart, Donald L.
stiltner, Deborah R.
Sullivan, George Thomas
Taylor, Wesley Patterson
Thomas, Steven Michael
Valdes, Ernest L.
Watson, Robert Edwin
Wetter, Timothy Scott
White, Richard W.
Wilbur, Thomas M.
Wilkins, James R.
Wright, Robert Joseph
Yuen, Nathan Quan Sut

AERONAUTICAL ENGINEERING DUTY OFFICER (AERONAUTICAL ENGINEERING) (151X)

Reiber, Carl E.
Thuot, Pierre J.
Urich, Dave Jeffrey
Young, Paul Edward

AERONAUTICAL ENGINEERING DUTY OFFICER (AVIATION MAINTENANCE) (152X)

Abrahamson, Thomas Dale
Bowser, John William
Boyce, John Conlin
Budgins, John Michael
Chase, John Hall, Jr.
Devey, William Sidney, Jr.
Dorgan, Martha Jo
Griger, Steven John
MacDonald, Stephen Joseph
McKenzie, Mark Francis
Miller, Karen Ann
Miller, Theodore Aldred
Moore, Roy Dayton
Morley, David Craig
Pyle, Stanley Earl
Rinaudo, James Joseph
Streeter, Timothy Franklin
Vandenberg, Thomas Michael

SPECIAL DUTY OFFICER (CRYPTOLOGY) (161X)

Burke, Michael James
Chamberlain, David Lars
Corr, Michael John
Cox, Terry Max
Evers, Wayne Kevin
Fletcher, Edward Curtis
Garcia, Vicente, Chavez, Jr.
Harrell, James Robert
Hayes, Hezekiah Lynwood
Laflen, Gerald Wayne
Lafont, Duane M
Laforce, Daniel Craig
Larocque, Stephen Anthony
Lauther, John Mallon
Lawton, Gerard Michael
Loescher, Michael Sewell
Lyman, Randall Thomas
Lynn, Michael, Francis, Jr.
Macy, Griffin Newton
Matthews, William McKinley
Meyer, Clarence nmn
Mitchell, Curtis Everett
Montgomery, Paul Richard
Murdock, Linda Lee
Newell, Robert Christy
Odwyer, John Mark
Orr, Mark J.
Pelham, Steven S.
Perlberg, Miriam F.
Pricolo, Dennis M.
Schaumburg, Gary L.
Straughn, Barry Thomas
Taylor, Reeves Ramsey, Jr.
Therrien, Jan Leslie

Tripp, Taylor T.
Tucker, Steven K.
Voigt, Paul Adam, Jr.
Volz, Dennis Michael
Weiss, Bruce R.
Williams, Charles A.
Witt, Scott William

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Banks, Allen NMN
Belser, Jo Jeanne
Brodersen, Beth Adele
Bruce, Christa Maria
Campbell, Marcia, Elaine
Clark, Mark Allan
Cooney, David Martin, Jr.
Cothron, Tony Lee
Craig, Peter S.
Darabond, James M.
Degree, James Joseph
Dorsett, David John
Erickson, Michael Lee
Evans, Richard Everet
Fox, John Thomas
Gardella, Paul Richard, Jr.
Gent, Richard Douglas
Greer, Mark Francis
Griffin, Arthur C.
Gunderson, Rick Alan
Gunggoll, Mark Ernest
Hays, Dale Edward
Henry, John G.
Henderson, Randall Lee
Henderson, Sara Kim
Holliday, Guy David
Howarth, Thomas Anthony, II
Keller, Tracy Neal
Kirk, James Robert
Knapke, Steven John
Martin, Carrie Elizabeth
McDonald, Gary Wayne
Moore, Paula Louise
Moser, Carl James
Nelowet, Albert Franklin, III
O'Grady, Denise Helen
Oldfield, Henry Jordan
Robinson, Danny Yurby
Shultz, Stanley Peter
Silk, Robert Allen
Smart, Michael Andrew
Standridge, Michael Allen
Sword, Jeffrey D.
Walker, Patricia Jane
Weiner, Richard Eugene, Jr.
Wheatley, Griffith Titus
Yaap, Stuart Allen
Yopp, William Dewey

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Hocking, Douglas A.
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O'Neill, Patricia NMN
Pietropaoli, Stephen Richard
Shrout, Gary Everett
Skinner, Robert Jeryl
Thurwanger, Michael Lawre
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Woodcock, Kathy Kelley

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Grandau, Frank Joseph
Green, Charles M.
Hill, William J.
Johnson, Clifford D.
Lutz, John W.
McGee, Timothy
Monitt, James Allerton
Neal, Michael W.
Paul, Linda Sue
Pedneau, David Edward
Rau, Robert Eugene
Rovero, Peter Joshua
Runco, Susan Kay
Shema, Richard Allen
Sheridan, Timothy Frank
Smolinski, Steven Paul
Toll, Raymond F. Jr.
Wilson, William Earle
Wright, Eric J.
Zankofski, Deborah Ann

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Bender, Charles Michael
Bennett, Michael Ray
Benscoter, Richard Hayes
Blakley, Robert William
Block, Lowell Karl
Borgen, Thomas Lynn
Boudah, Mark Fredrick
Boyer, Ralph Joseph Jr.
Branges, Warren Gregory
Briquelet, John Arthur
Bristow, Isaac NMN
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Callis, Lloyd Baker Jenkins
Campbell, William Richard
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Case, Van Allen
Caviness, Edmond Carroll, II
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Chestnutt, Harold Dean
Choyeski, Frankie Dale
Corbett, John Bertram
Cox, William Louis
Crabtree, Charles Daniel
Cripps, Roy Louis
Crockett, Lawrence David
Crone, Michael John
Darling, Peter Lloyd
Davis, Louis Alfred
Dell, Franklin E.
Dickenson, Michael Lee
Downs, Bernard Raphael
Dustin, Larry James
Dutton, Michael Robert
Erwin, Bert David
Eskridge, William David, Jr.
Estrada, Joseph Earl
Faust, Richard
Ferranti, Jerry Wilber
Fickes, Robert Larry
Fuller, James Byron
Gage, Fredrick Eugene, II
Gilboy, Richard Patrick
Godwin, Marshall Earl
Goldenberg, Jack Phillip
Griffith, Lawrence Dean
Griffith, Roger Nyle
Hamilton, Edwin Philip
Hanneke, Thomas William
Harritt, John Douglas
Hartley, William Jud
Havens, William Edward
Heath, Benjamin Arden
Heery, Joseph William
Hines, Gordon John
Hosking, James Raymond
Hough, James Howard
Howard, Donald Eugene
Hudnell, Audie Lee
Hurst, Larry Carl
Ingraham, Leroy Diller
Jackson, Noah William
Jennings, Lacey
Johnson, Bruce E.
Johnson, Dennis Willard
Johnson, William McKenley, Jr.
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Kennedy, John Michael, Jr.
Kerner, James Charles
King, Leonard
Kluber, Richard Harold
Knight, John C.
Knight, Michael Andrew
Kugler, David Lee
Kurek, John H.
Kuriger, James Lawrence
Lakey, Carroll Lee
Larkin, Stephen Everett
Lee, Richard Edwin Kealoha
Lester, Brian Edward
Lippa, Val Edward
Litzinger, John Timo
Livingston, Jeffrey Alan
Long, Curry Andrew
Lucas, Paul Robert
Lydick, Wayne Allen
Magnusson, Everett Carl
Malson, Robert Charles
Mayock, Patrick Michael
McCarthy, Thomas William
McDonnell, Alfred F.
McElfresh, Thomas Carter
McGaughey, Philip
McKinney, Frank A., III
McQuiston, Jonathan A.
McThompson, Larry Alan
Meadors, Dennis Edgar
Melay, William Denis
Melio, Craig Fenn
Merritt, Gene Riley
Miller, Glenn Earl
Moddesette, Anthony Sherman
Moore, Bruce F.
Munter, Charles Howard
Murphy, Charles Lewis, Jr.
Murtagh, Anthony
Musgrove, Rhudean Carl
Musto, Lawrence Louis, Jr.
Muth, William Ernest
Myers, William David
North, William Henry, III
Odell, James Craig
Odenbrett, Vincent Dominic
Olic, Frank Philip
Overbey, James Randall
Peters, Bryan Q.
Phillips, Charles Leon, Jr.
Porter, James Michael
Prange, Wilmont John
Quijada, Richard H.
Resner, William Edward
Rosenboom, Roger D.
Ruth, Edward Lee
Rutland, William Joseph, Jr.
Scarborough, Leslie David
Scates, Timothy Earl
Scott, Raymond
Sellers, Charles Thomas
Sellers, Kenneth Ray
Sharpe, Kenneth W.
Simmons, John Clark
Sims, Hollis E.
Slone, David Curtis
Smith, George Olan
Smith, Samuel Melvin, Jr.
Smith, Waymon A.
Snock, Maximillion R.
Sonderman, Donald Duane
Spiva, Stephan Dale
Stewart, David Val
Sund, Jim Ervin
Sylvester, Richard Roland
Trumpower, Robert Eugene
Walls, Leon
Watkins, George Augustus
Weber, Raymond Paul, Jr.
Westphal, Robert Lee

Wetherington, Rayford Earl
Wheat, Gary Ray
Whelan, Robert Lawrence
Wilcher, Larry Dwight
Wilke, Lanny Ernest
Williamson, Gary Wayne
Witte, Herman Gerhardt
Worthington, Michael Allen
Young, David A.